

(1) Fourteenth and Final Account and Report of Conservator; (2) Petition for Fees, for Termination of Conservatorship Distribution of Assets of Estate and (3) Discharge of Conservator (Prob. C. 1860 & 2620)

DOD: 11-10-10		<b>CALIFORNIA DEPT. OF DEVELOPMENTAL SERVICES</b> , Conservator, is Petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
				<u>Note: This is the 9<sup>th</sup> hearing on this final account.</u>	
		<b>Account period: 3-1-09 through 11-10-10</b>		<u>On 10-17-12, a separate Petition for Instructions was filed. See Page 1B.</u>	
Cont. from 111711, 020212, 040512, 051712, 062812, 080212, 100412, 110112		Accounting: \$34,377.72 Beginning POH: \$14,465.02 Ending POH: \$16,100.50		<u>Minute Order 11-1-12: No appearances. Matter continued to 11-29-12. The Court orders attorney Bruce Beland to be personally present on 11-29-12.</u>	
	Aff.Sub.Wit.			<u>The following issues remain:</u>	
✓	Verified		<b>Account period: 11-11-10 through 6-30-11</b>	1. Probate Code §§ 2631 and 13100 allow liquidation and distribution of <u>personal property only</u> in the manner requested. Real property, including undivided interests, is subject to Probate Code §13151, which requires the mandatory judicial council Petition to Determine Succession to Real Property Form DE-310, inventory and appraisal as of the date of death, and noticed hearing.	
	Inventory		Accounting: \$18,405.01 Beginning POH: \$16,100.50 Ending POH: \$12,537.04	2. Petitioner also requests to distribute this asset when there is a Medi-Cal lien on the estate. Need authority.	
	PTC			3. The proposed order does not correspond to the prayer. Need clarification.	
	Not.Cred.		(POH consists of cash in the amount of \$554.93 plus an undivided 1/3 interest of a 3/4 interest in real property, a stove, and an air conditioner)	4. The proposed order does not comply with Local Rule 7.6.1.A. Monetary distributions must be stated in dollars. Need clarification as to the amount to be distributed on the Medi-Cal claim. (Examiner calculates \$389.93. Need verification.)	
✓	Notice of Hrg		Conservator: \$125.00	5. Petitioner originally stated that the Conservatorship Estate owned an "UNDIVIDED 1/3 <sup>RD</sup> INTEREST OF 3/4 <sup>TH</sup> INTEREST IN REAL PROPERTY." However, Petitioner now states the interest is a "1/2 (ONE-HALF)" interest.	
✓	Aff.Mail	W	Attorney: \$40.00		
	Aff.Pub.		Petitioner states there is a Medi-Cal claim in the amount of \$108,627.87 and requests that the court authorize payment of the remaining balance of the conservatorship estate on this claim.	Reviewed by: skc	
	Sp.Ntc.			Reviewed on: 11-27-12	
	Pers.Serv.			Updates:	
	Conf. Screen			Recommendation:	
	Letters			File 1A - Tortorella	
	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting		<b>Petitioner prays for an Order:</b>		
	Status Rpt	X	1. Approving, allowing and settling the final account;		
	UCCJEA		2. Terminating the proceedings herein;		
	Citation		3. Authorizing payment of the conservator's and attorney's fees;		
	FTB Notice		4. Authorizing payment of the remaining balance to the Dept. of Health Services as payment in full on the Medi-Cal claim;		
			5. Authorizing transfer of the house, stove and air conditioner to the Conservatee's sister; and		
			6. Discharge of Conservator.		

<b>DOD: 11-10-10</b>		<b>CALIFORNIA DEPT. OF DEVELOPMENTAL SERVICES</b> , Conservator, is Petitioner.  Petitioner states the Conservatee's only known surviving relative is his sister, Cina Rand, who resides in Clovis, CA. The conservatorship estate herein includes a one-half interest in real property in Fresno. The remaining one-half interest in the real property is held by this conservatee's brother, Dominic Tortella, DOD 11-6-09.  Petitioner states that pursuant to Probate Code §§ 2590 and 2591, the Court may authorize a Conservator to sell or dispose of real property with or without confirmation.  Pursuant to Probate Code §2591(c)(1), the Conservator hereby requests authority to transfer the Conservatee's interest in the real property to Ms. Rand, the Conservatee's only known surviving relative.  Petitioner prays that this Court authorize the Director of the Dept. of Developmental Services of the State of California to exercise its authority under Probate Code §2591 to transfer the Conservatee's interest in the real property and to issue such other relief as appropriate.  <b>Memorandum of Points and Authorities</b> cites Probate Code §§ 2590 and 2591. Petitioner states that the Court may authorize the transfer of the real property, as the property is not the Conservatee's (or his brother's) residence, as they are both deceased. Petitioner states Cina Rand is the only known surviving relative of the Conservatee and the Conservator has no lien or other interest in the property. Further administration of the conservatorship estate will only use up conservatorship assets and will not serve any purpose for which the conservatorship was created. It appears to be prudent and in the best interest of all parties that the Court exercise its authority under this section to transfer the real property to Ms. Rand.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Continued from 11-1-12.</b>  <b>Minute Order 11-1-12:</b> No appearances. Matter continued to 11-29-12. The Court orders attorney Bruce Beland to be personally present on 11-29-12.  <b>1. Authority does not appear to be proper.</b>  Probate Code §2591(c)(1) allows a conservator the power " <u>to sell at public or private sale</u> " real property without Court confirmation of sale.  Probate Code §2590(a) states the Court may make an order granting this power if it is to the " <u>advantage, benefit, and best interest of the estate to do so.</u> "  Here, Petitioner is requesting to <u>distribute</u> real property from the conservatorship estate after the Conservatee's death without reference to the Medi-Cal lien on the conservatorship estate in the amount of \$108,627.87 that was noted by Petitioner in the 14 <sup>th</sup> Account filed 10-13-11 (Page 1A).  Examiner notes that DHS was served with a copy of this Petition and the P&A by mail on 10-16-12; however, the Court may require clarification as to authority to <u>distribute</u> real property from a conservatorship estate, <u>with reference to the lien</u> , or further time for response <u>or</u> agreement by DHS.  <u>As previously stated, a Petition to Determine Succession is an appropriate method to distribute property. Examiner notes that this is a summary proceeding that requires the heir to petition.</u>  <b>2. The Conservatorship Estate owned an "UNDIVIDED 1/3RD INTEREST OF 3/4TH INTEREST IN REAL PROPERTY" (See Schedule G – POH at end of account period). Petitioner now states the interest is a "1/2 (ONE-HALF)" interest, with the other half held by the brother (Pages 2A and 2B). Need clarification.</b>  <b>3. Need order.</b>	
<b>Cont. from 110112</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>			
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<input type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
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<input type="checkbox"/>	<b>Letters</b>			
<input type="checkbox"/>	<b>Duties/Supp</b>			
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			

<b>DOD: 11-6-09</b>		<b>CALIFORNIA DEPT. OF DEVELOPMENTAL SERVICES</b> , Conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Account period: 3-1-09 through 11-6-09</b>	<u>Continued from 11-1-12.</u>
		Accounting: \$23,821.68	<b>Minute Order 11-1-12: No appearances.</b>
		Beginning POH: \$14,193.12	<b>Matter continued to 11-29-12. The Court orders attorney Bruce Beland to be personally present on 11-29-12.</b>
		Ending POH: \$16,068.68	
<b>Cont. from 110112</b>		<b>Account period: 11-7-09 through 5-31-12</b>	<u>Page 2B is a separate Petition for Instructions.</u>
	<b>Aff.Sub.Wit.</b>	Accounting: \$16,170.48	<b>1. As stated previously in the prior Examiner Notes for the related matter, Probate Code §§ 2631 and 13100 allow liquidation and distribution of <u>personal property only</u> in the manner requested. Real property, including undivided interests, is subject to Probate Code §13151, which requires the mandatory judicial council Petition to Determine Succession to Real Property Form DE-310, inventory and appraisal as of the date of death, and noticed hearing.</b>
✓	<b>Verified</b>	Beginning POH: \$16,068.68	<b>2. Petitioner also requests to distribute this asset when there is a Medi-Cal lien on the estate. Need authority.</b>
	<b>Inventory</b>	Ending POH: \$11,235.03	<b>3. Need Notice of Hearing and proof of service at least 15 days prior to the hearing on Cina Rand (sister) and DHS. (Proof of Service filed 10-17-12 relates to the Petition for Instructions at Page 2B only.)</b>
	<b>PTC</b>	(POH consists of cash in the amount of \$235.03 plus an undivided 1/3 interest of a 3/4 interest in real property)	<b>4. <u>Order does not match Petition.</u> Petition states ending balance is \$11,235.03, of which \$235.03 is cash. Order states ending balance is \$16,100.50, of which \$443.12 is cash. Need clarification.</b>
	<b>Not.Cred.</b>	Conservator: \$50.00 outstanding, Balance waived	<b>5. Order does not comply with Local Rule 7.6.1.A. Monetary distributions must be stated in dollars. Need clarification as to the amount to be distributed on the Medi-Cal claim. Examiner is unable to calculate due to discrepancy noted in #4 above.</b>
	<b>Notice of Hrg</b>	Attorney: \$25.00 outstanding, Balance waived	
	<b>Aff.Mail</b>	Court Investigation Fees (Superior Court): \$50.00, Balance waived.	
	<b>Aff.Pub.</b>	Petitioner states there is a Medi-Cal claim in the amount of \$56,556.10 and requests that the court authorize payment of the remaining balance of the conservatorship estate on this claim.	
	<b>Sp.Ntc.</b>	<b>Petitioner prays for an Order:</b>	
	<b>Pers.Serv.</b>	7. Approving, allowing and settling the final account;	
	<b>Conf. Screen</b>	8. Terminating the proceedings herein;	
	<b>Letters</b>	9. Waiving the conservator's and attorney's fees;	
	<b>Duties/Supp</b>	10. Authorizing payment of \$50.00 to the herein Conservator of the estate for outstanding deferred fees as payment in full and waiving the remaining amount due;	
	<b>Objections</b>	11. Authorizing payment of \$25.00 to the State Dept. of Developmental Services' Office of Legal Affairs for outstanding deferred fees as payment in full and waive remaining balance due;	
	<b>Video Receipt</b>	12. Authorizing payment of \$50.00 to Fresno Superior Court for outstanding deferred fees previously approved by the Court as payment in full and waive the remaining balance due;	
	<b>CI Report</b>	13. Authorizing payment of the remaining balance to the Dept. of Health Services as payment in full on the Medi-Cal claim;	
	<b>9202</b>	14. Authorizing transfer of the house to the Conservatee's sister; and	
	<b>Order</b>	15. Discharge of Conservator.	
	<b>Aff. Posting</b>		<b>Reviewed by:</b> skc
	<b>Status Rpt</b>		<b>Reviewed on:</b> 11-27-12
	<b>UCCJEA</b>		<b>Updates:</b>
	<b>Citation</b>		<b>Recommendation:</b>
	<b>FTB Notice</b>		<b>File 2A - Tortorella</b>

DOD: 11-6-09		<b>CALIFORNIA DEPT. OF DEVELOPMENTAL SERVICES</b> , Conservator, is Petitioner.  Petitioner states the Conservatee's only known surviving relative is his sister, Cina Rand, who resides in Clovis, CA. The conservatorship estate herein includes a one-half interest in real property in Fresno. The remaining one-half interest in the real property is held by this conservatee's brother, Nicholas Tortella, DOD 11-10-10.  Petitioner states that pursuant to Probate Code §§ 2590 and 2591, the Court may authorize a Conservator to sell or dispose of real property with or without confirmation.  Pursuant to Probate Code §2591(c)(1), the Conservator hereby requests authority to transfer the Conservatee's interest in the real property to Ms. Rand, the Conservatee's only known surviving relative.  Petitioner prays that this Court authorize the Director of the Dept. of Developmental Services of the State of California to exercise its authority under Probate Code §2591 to transfer the Conservatee's interest in the real property and to issue such other relief as appropriate.  <b>Memorandum of Points and Authorities</b> cites Probate Code §§ 2590 and 2591. Petitioner states that the Court may authorize the transfer of the real property, as the property is not the Conservatee's (or his brother's) residence, as they are both deceased. Petitioner states Cina Rand is the only known surviving relative of the Conservatee and the Conservator has no lien or other interest in the property. Further administration of the conservatorship estate will only use up conservatorship assets and will not serve any purpose for which the conservatorship was created. It appears to be prudent and in the best interest of all parties that the Court exercise its authority under this section to transfer the real property to Ms. Rand.	<b>NEEDS/PROBLEMS/COMMENTS:</b> <u>Continued from 11-1-12.</u>  <b>Minute Order 11-1-12:</b> No appearances. Matter continued to 11-29-12. The Court orders attorney Bruce Beland to be personally present on 11-29-12.  <b>4. Authority does not appear to be proper.</b>  Probate Code §2591(c)(1) allows a conservator the power " <u>to sell at public or private sale</u> " real property without Court confirmation of sale.  Probate Code §2590(a) states the Court may make an order granting this power if it is to the " <u>advantage, benefit, and best interest of the estate to do so.</u> "  Here, Petitioner is requesting to <u>distribute</u> real property from the conservatorship estate after the Conservatee's death without reference to the Medi-Cal lien on the conservatorship estate in the amount of \$108,627.87 that was noted by Petitioner in the 14 <sup>th</sup> Account filed 10-13-11 (Page 1A).  Examiner notes that DHS was served with a copy of this Petition and the P&A by mail on 10-16-12; however, the Court may require clarification as to authority to <u>distribute</u> real property from a conservatorship estate, <u>with reference to the lien, or</u> further time for response <u>or</u> agreement by DHS.  <u>As previously stated, a Petition to Determine Succession is an appropriate method to distribute property. Examiner notes that this is a summary proceeding that requires the heir to petition.</u>  <b>5. The Conservatorship Estate owned an "UNDIVIDED 1/3RD INTEREST OF 3/4TH INTEREST IN REAL PROPERTY" (See Schedule G – POH at end of account period). Petitioner now states the interest is a "1/2 (ONE-HALF)" interest, with the other half held by the brother (Pages 2A and 2B). Need clarification.</b>  <b>6. Need order.</b>
Cont. from 110112			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc Reviewed on: 11-27-12 Updates: Recommendation: File 2B - Tortorella	

Atty Shahbazian, Steven L. (for Petitioner/Conservator Connie Lynn Rana)

Atty Kruthers, Heather (for the Public Guardian/current conservator of the estate)

## (1) Third Account and Report of Conservator and (2) Petition for Fees

<b>Age: 76 years</b>		<b>CONNIE RANA</b> , former Conservator, is petitioner.  Account period: 1/8/08 – 12/31/09  Accounting - <b>\$782,889.76</b> Beginning POH- <b>\$642,039.07</b> Ending POH - <b>\$496,754.10</b>  Conservator - <b>waives</b>  Attorney - <b>\$4,187.50</b> (per itemization and declaration, 16.75 hours at \$250.00 per hour)  <b>Current bond: \$800,000.00</b>  <b>Petitioner prays for an Order:</b>  1. Settling and allowing the third account and report and approving and confirming the acts of petitioner as filed; 2. Authorizing Petitioner to pay her attorney the sum of \$4,187.50 for ordinary legal services provided to the conservator and the estate during the period of the account.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Continued from 10/25/12.</b> Minute order states Mr. Shahbazian informs the court that a conservatorship has been established in Nevada. Ms. Garcia informs the Court that she has attempted to contact the Nevada Court, but they are not responding. The Public Guardian is directed to provide the Court with the case number as well as information as to who they have tried to contact at the Nevada Court. In addition, the Public Guardian is directed to provide the Court information regarding any surcharges and issues with the conservatee.  <b>Note:</b> Petitioner, Connie Rana, was removed as Conservator of the Estate and the Public Guardian was appointed by Minute Order dated 6/18/13.  <p style="text-align: center;"><i>Please see additional page</i></p>	
Cont. from 102511, 120611, 012412, 030812, 050712, 061812, 072312, 082712, 102512				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
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<input type="checkbox"/>	Letters			
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<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input checked="" type="checkbox"/>	2620(c)			
<input type="checkbox"/>	Order	X		
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Reviewed by: KT Reviewed on: 11/28/12 Updates: Recommendation: File 3A - Parks		

1. **Disbursement schedule shows payments bi-monthly of \$2,700 to Rana and Rana for rent. The court may require clarification regarding these rent payments and whether or not Rana and Rana has any relationship to the conservator. California Rules of Court 7.1059(a)(4) states the conservator must not engage his or her family members to provide services to the conservatee for a profit of fee when other alternatives are available. Where family members do provide services, their relationship must be fully disclosed to the court and their terms of engagement must be in the best interest of the conservatee compared with the terms available from other independent service providers.** – Declaration of Conservator filed on 11/30/11 states the rental property is owned by the conservator and her husband; however, the sub-market rent is not sufficient to pay the mortgage, property taxes, insurance, and maintenance costs for the property. Conservator states she and her husband do not make any profit from the conservatee's tenancy.
2. **Disbursement schedule shows several months where it appears the conservatorship is paying the cell phone of the live in care provider Sandra Martin. Court may require clarification.** – Declaration of Conservator filed on 11/30/11 states the cell phone payments for Sandra Martin, live in care provider, because the care provider would often take the conservatee to various places and therefore, it was required that the care provider have a cell phone. Because it was a requirement for this care provider, it was agreed that the conservatorship would pay the costs.
3. **Disbursement schedule shows several months where there are two payments per month for Las Vegas Valley Water (utilities), Pesky Pete's Pest control, Embarq (phone), Cox Enterprises (cable service), Southwest Gas (utilities), Republic Service (trash), Nevada Power (utilities). It appears the conservatorship may be paying for more than just the conservatee's expenses. Court may require clarification.** – Declaration of Conservator filed on 11/30/11 states some payment were made, on behalf of the care providers, as part of the "barter" agreement between the care providers and the conservator. The various utilities or cable services expenses would be paid, on occasion, for the conservatee at her residence and on occasion as the "barter" for services by a care provider.
4. **Disbursement schedule shows items purchased that should be included on the property on hand schedule such as:**
  - a. **3/11/08 – TV Surround + patio furniture for \$1,723.65**
  - b. **4/22/08 – Washer and dryer for \$1,578.90**
  - c. **12/22/09 – firmer sofa (?) for \$2,196.19** – Declaration of Conservator filed on 11/30/11 states the purchases were necessary. (**Note:** The Examiner does not question whether not the purchases were necessary but that they are not listed on the property on hand schedule as required.).
5. **Disbursement schedule shows gifts of cash on 12/28/09 to the conservatee's great nephews, Josh Rana - \$250.00 and Jacob Rana - \$200.00. California Rules of Court, Rule 7.1059(b)(3) states the conservator must refrain from making loans or gifts of estate property, except as authorized by the court after full disclosure.** – Declaration of Conservator filed on 11/30/11 states the cash gifts are minimal reflections of the conservatee's affection for her great nephews.

*Please see additional page*

6. Disbursement schedule shows payments identified as Summerlin Dues (without stating the nature and purpose of the payment) as follows:
- 4/15/08 - \$271.00
  - 4/15/08 - \$271.00
  - 8/26/08 - \$271.00
  - 8/26/08 - \$271.00 - Declaration of Conservator filed on 11/30/11 states Summerlin is the name of the large planned development where the Conservatee (and conservator and her husband) reside. Because of the lower rental payments Conservator states she has paid (quarterly) the Summerlin assessment for the rental house. The four assessment payments are the only ones paid and the conservatorship has not been further charged for these homeowner assessments.
7. Disbursement schedule shows a disbursement for "Home Warranty" in the amount of \$313.95 on 5/27/09. Court may require explanation as to why the conservatorship is paying for home warranty when renting (see item #2 above). - Declaration of Conservator filed on 11/30/11 states this is a 50-50 split for payment on the home warranty for the rental house.
8. This conservatorship was established in 2003. Property on hand schedule from the 2<sup>nd</sup> account ending on 12/31/2007 shows promissory notes (all apparently established during the 2<sup>nd</sup> account period) as follows:
- \$38,000 dated 6/27/05 from Aaron Wallace secured by a Deed of Trust with interest at 16% per annum
  - \$252,000.00 dated 7/19/05 from Aaron Wallace secured by a Deed of Trust with interest at 13% per annum.
  - \$60,000.00 dated 10/11/05 from John P. Rana and Kea Rana with interest at 4% per annum. (It appears that John P. Rana is the son of the petitioner.)
- Probate Code §2570 requires the Conservator to obtain prior court approval before investing money of the estate. There is nothing in the file to indicate the conservator obtained permission from the Court to invest money of the estate. - Declaration of Conservator filed on 11/30/11 states the promissory notes contained in the 2<sup>nd</sup> account were paid current, principal and interest included. All the notes were first trust deeds secured by real properties with sufficient equities. However, because the notes were of such a high rate of return (16% and 13% interest annum), the mortgagor was in danger of being unable to make further payments, which would have resulted in the requirement of the conservatorship to foreclose on the properties. To avoid foreclosure and subsequent costs incurred, and to avoid owning the properties, the conservator, through her husband who is a real estate investor, replaced these notes with other notes also secured by first trust deeds which are now paying at a more normal rate of return of 4%.
9. Property on hand schedule for this (the 3<sup>rd</sup>) accounting shows two promissory notes as follows:
- \$95,000 secured by 1209 Coral Isle Way, Las Vegas, NV with interest at 4% per annum and an outstanding balance of \$95,000.00
  - \$205,000 secured by 11464 Crimson Rock, Las Vegas, NV with interest at 4% per annum an outstanding balance of \$191,286.22.
- It appears that the promissory notes in the second account are not the same promissory notes in the third account. What happened to the promissory notes in the second account? Where they paid in full? Need clarification and need change in asset schedule. - Declaration of Conservator filed on 11/30/11 states the questions raised herein are addressed in the answer above. All principal and interest payments and current interest rates and principal balances are recorded on the Third Account and Report are accurate.

**Please see additional page**

**10. Need Order**

**Public Guardian's Objections to the Third Account and Report of Conservator and Petition for Fees was filed on 9/7/12.** After reviewing the Account the Public Guardian objects as follow:

1. There are two utility bills paid every month within days of each other.
2. There is an extensive amount of supplies and food purchased for Ms. Parks and her care providers monthly.
3. Although Ms. Rana states that she uses the car (which is Ms. Parks' Jaguar) to transport her sister to outings, there is a van that is used to transport Ms. Parks. Why is the conservatee paying for two cars when she cannot drive?
4. There are many insurance payments made, but do not specify for why type of insurance. There are also large gaps as to when insurance payments are being made. They are not monthly or quarterly.
5. Two different pest control company bills are being paid.
6. There is a monthly cleaning bill. In the Public Guardian's experience, care providers do the cleaning while the person receiving the care is resting or not needing assistance. Furthermore, the cleaning company was coming twice a month, sometimes within 3 days of each other.
7. Charges were made to Charlotte Rouse clothing store, which caters to the 15 – 25 year old age group. The conservatee is older than 65.
8. Two monthly trash service bills are being paid each month.
9. In late 2008 there were two cable bills being paid each month.
10. There was \$4,460 paid for the installation of window fixtures on a home that the conservatee rents.
11. There was insurance with different medical companies. What was paid for as a co-pay or deductible? On 2/5/08, she paid "Insurance, med pay" (\$1,079.14), 04/17/08 – "Insurance" (\$1,132.00) but does not specify what insurance, listed Humana Health Insurance deductible (\$1,620.00 – 09/05/08), Health Net, Right Source Rx, and "A&A Insurance add on H.O. prem." (\$300.00) What is Medicare covering? Physical therapy should be covered under insurance if the doctor is prescribing it. Some insurance companies, whether primary or secondary to Medicare, should be picking up some of the expenses and visa-versa.
12. What is RC Wille Firmer So?? Purchased on 12/22/09?
13. Why were new lamps purchased on 12/22/09 for \$285.65?

**Wherefore, the Public Guardian requests the Court deny Petitioner's third account as set forth.**

**Please see additional page**



### 3A (additional page 4 of 5) Darleen Joyce Parks (CONS/PE) Case No. 03CEPR01192

**Second Supplemental Declaration of the former Conservator, Connie Rana filed on 10/3/12. Ms. Rana responds to the Public Guardian's Objections number 1-13 in sequence, as follows:**

1. **Utilities** - There are two utility bills paid because there is a similar "barter" paid for the Conservatee's in-home care givers. The amounts paid are an "offset" or "barter" for the caregivers in exchange for their services. There is no personal benefit of any of these payments for the Conservator. The amounts are quite modest and do not cause harm or threat to the estate.
2. **Supplies and Food** - Some supplies and expenses are for the care providers, who are often there for 10 hours at a time and require meals. However, much of the expense is to buy the conservatee her adult diapers at \$50 per box, of which she wears at least 5 per day, plus other supplies such as lotions, shampoos, toothpaste, paper products as well as food.
3. **Vehicle** - The conservatee has two vehicles (and has had these throughout the conservatorship). The van is necessary to transport the conservatee, as she is wheelchair bound. She also likes to drive in her other vehicle, a Jaguar, which is paid for. The cost of maintaining the two vehicles is minimal compared to the convenience it provides. The Conservatee is proud of her Jaguar (which was almost new when she had her stroke) and she enjoys being in it. The Conservator and her family have extensive vehicles of their own and do not use the Conservatee's vehicles.
4. **Insurance** - The only insurance that is paid for on behalf of the conservatee is for the vehicles and for her renter's insurance. This is generally paid on a semi-annual basis.
5. **Pest Control** - Besides the monthly bill for the conservatee's residence, a second bill is often paid for for an in-home care provider as a "barter." These payments are included in the general costs to care for the Conservatee and have been previously reviewed and approved by this court including, on the Second Account and Report, which was approved on 7/14/11.
6. **House Cleaning** - The home is relatively large and has other persons (care providers) in it daily, in addition to the conservatee. Contrary to the Public Guardian's "experience" the care providers that Ms. Rana has hired do not do the cleaning and have not been hired to do so. All cleaning bills were for the benefit of the Conservatee.
7. **Charlotte Rouse** - The Conservator is informed that Charlotte Rouse has stores other than the "15-25 year old group" and also for "larger" women like the Conservatee. The only purchases at Charlotte Rouse would have been the Conservatee's nightgowns.
8. **and 9 Trash Services and Cable Bill** - These are the same "barter services" for care givers necessary to maintain 24 hour care for the Conservatee
10. **Window Fixtures** - New windows were necessary in the home for the comfort of the Conservatee.
11. **Insurance** - The only insurance available to the Conservatee, and of which she has been a member since she retired, is Humana Insurance. Humana is not part of the Medicare system; it is separate coverage and is excluded from Medicare.
12. **RC Willey** - Is a furniture store where the Conservator purchased a new and firmer sofa for the conservatee.
13. **New Lamps** - New lamps were necessary because the old ones in her bedroom broke.

The above expenditures are generally minimal and are necessary and convenient for the maintenance of the household and the care and comfort of the conservatee, who has been in Las Vegas for over 7 years and resides 24 hours per day in her residence.

**Please see additional page**

**Dept. 303, 9:00 a.m. Thursday, November 29, 2012**

Ms. Rana states she has been appointed guardian of the person and estate of Darlene Parks in Clark County, Nevada. An Order for Emergency Release of Funds for Guardian to Pay Monthly Expenses from Blocked Accounts was filed on 8/15/12 in Clark County, Nevada. The order was prepared after Ms. Rana submitted a budget, through her attorney in Nevada, for funds to be removed from the blocked accounts for the care of the Conservatee. The budget was approved in the amount of \$8,460 per month. Ms. Rana states that she has approval from the Nevada Court, which now has jurisdiction over the person and estate of the conservatee of nearly the same expenses and budget that she has previously expended for the ongoing care of the conservatee.

**Memorandum Re Third Account and Report of Conservatee filed by Connie Rana on 10/3/12.** States she was appointed as conservator in 2003 because it was determined that Darlene [conservatee] was incapable of caring for herself or her financial matters as a result of a stroke. This condition has remained unchanged for nearly 9 years and Darlene receives the same 24 hour a day care she has had since her stroke. This court granted Ms. Rana's petition to move the Darlene to Nevada on 3/16/2005. Darlene has resided primarily in Nevada since that time. The Third Account has been submitted and is pending approval by this court subject to various questions by the probate examiners, the court and now the Public Guardian.

Petitioner contends that since the court granted permission for the conservatee to move to Nevada and a new proceeding is in effect in Nevada, California courts have no jurisdiction to order the "return" of the Conservatee to this state or to cancel the previous order by which the Conservatee was removed to Nevada. The Court's jurisdiction is now limited to Probate Code §2630. Without fully addressing this jurisdictional issue, there are no substantive reasons for this court not to approve the current Third Account and Report.

From review of the Probate Examiner's notes, and the Court's various comments, the primary concerns are that the Conservator failed to disclose, or failed to receive prior approval of certain transactions which may have been considered "self-dealing" by the court. These matters have been fully explained, and justified in the "Supplemental Declaration and Report of the Conservator." Primarily there has been no showing of harm or loss to the estate of the Conservatee. In fact, as the Third Account and Report shows, the investments provided higher than market value returns.

The Court and the examiners have had more than ample opportunity to review the "transactions" that they may have considered questionable. The fact that the examiners may have decided to "over analyze" every transaction, and point out to the court such *de minimis* matters as the payment of a caregiver's cell phone bill or gifts to the conservatee's great nephews does not create a breach of fiduciary duty.

Upon request by this court, the Public Guardian's office filed objections to the Third Account. The objections have been addressed by Ms. Rana in her Second Supplemental Declaration.

Under the above circumstances and law in this area, the Court is well within its authority in reviewing all transactions and actions by the conservator to approve such transactions which may have required prior court approval, as well as final approval of the Third Account. It should be noted that Ms. Rana is the conservatee's only sibling and closest relative. She has devoted herself for over 9 years to the care of her sister without compensation. She has provided 24 hour, 7 days a week care of her sister with the specific intent not to transfer her to a skilled nursing facility and has expended personal time and effort, well beyond that of any normal conservator's obligation, for her sister. If it is the position of the examiners and this court that, for example, the Conservatee should not be in a quality home owned by the conservator but should, instead, perhaps live next door in a house owned by some other person and pay the same or more rent, it would be the triumph of "procedure" over "substance" and would not provide any greater care or comfort to the conservatee.

**(1) Fourth and Final Account and Report of Conservator and (2) Petition for Fees**

<b>Age: 76 years</b>  <b>Cont. from</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 80%;"><b>Aff.Sub.Wit.</b></td> <td style="width: 10%;"></td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><b>Verified</b></td> <td></td> </tr> <tr> <td></td> <td><b>Inventory</b></td> <td></td> </tr> <tr> <td></td> <td><b>PTC</b></td> <td></td> </tr> <tr> <td></td> <td><b>Not.Cred.</b></td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><b>Notice of Hrg</b></td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><b>Aff.Mail</b></td> <td></td> </tr> <tr> <td></td> <td><b>Aff.Pub.</b></td> <td></td> </tr> <tr> <td></td> <td><b>Sp.Ntc.</b></td> <td></td> </tr> <tr> <td></td> <td><b>Pers.Serv.</b></td> <td></td> </tr> <tr> <td></td> <td><b>Conf. Screen</b></td> <td></td> </tr> <tr> <td></td> <td><b>Letters</b></td> <td></td> </tr> <tr> <td></td> <td><b>Duties/Supp</b></td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><b>Objections</b></td> <td></td> </tr> <tr> <td></td> <td><b>Video Receipt</b></td> <td></td> </tr> <tr> <td></td> <td><b>CI Report</b></td> <td></td> </tr> <tr> <td></td> <td><b>9202</b></td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><b>Order</b></td> <td></td> </tr> <tr> <td></td> <td><b>Aff. Posting</b></td> <td></td> </tr> <tr> <td></td> <td><b>Status Rpt</b></td> <td></td> </tr> <tr> <td></td> <td><b>UCCJEA</b></td> <td></td> </tr> <tr> <td></td> <td><b>Citation</b></td> <td></td> </tr> <tr> <td></td> <td><b>FTB Notice</b></td> <td></td> </tr> </table>		<b>Aff.Sub.Wit.</b>		<input checked="" type="checkbox"/>	<b>Verified</b>			<b>Inventory</b>			<b>PTC</b>			<b>Not.Cred.</b>		<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		<input checked="" type="checkbox"/>	<b>Aff.Mail</b>			<b>Aff.Pub.</b>			<b>Sp.Ntc.</b>			<b>Pers.Serv.</b>			<b>Conf. Screen</b>			<b>Letters</b>			<b>Duties/Supp</b>		<input checked="" type="checkbox"/>	<b>Objections</b>			<b>Video Receipt</b>			<b>CI Report</b>			<b>9202</b>		<input checked="" type="checkbox"/>	<b>Order</b>			<b>Aff. Posting</b>			<b>Status Rpt</b>			<b>UCCJEA</b>			<b>Citation</b>			<b>FTB Notice</b>		<p><b>CONNIE RANA</b>, former Conservator, is petitioner.</p> <p>Account period: 1/8/08 – 12/31/09</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Accounting -</td> <td style="text-align: right;"><b>\$833,886.44</b></td> </tr> <tr> <td>Beginning POH-</td> <td style="text-align: right;"><b>\$496,754.10</b></td> </tr> <tr> <td>Ending POH -</td> <td style="text-align: right;"><b>\$278,000.80</b></td> </tr> </table> <p>Conservator - <b>waives</b></p> <p>Attorney - <b>\$2,000.00</b> (per Local Rule)</p> <p><b>Current bond: \$800,000.00</b></p> <p><b>Petitioner prays for an Order:</b></p> <p>3. Settling and allowing the fourth account and report and approving and confirming the acts of petitioner as filed;</p> <p>4. Authorizing Petitioner to pay her attorney the sum of \$2,000.00 for ordinary legal services provided to the conservator and the estate during the period of the account.</p>	Accounting -	<b>\$833,886.44</b>	Beginning POH-	<b>\$496,754.10</b>	Ending POH -	<b>\$278,000.80</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Disbursement schedule includes payments of attorney fees without prior court order.</p> <ul style="list-style-type: none"> <li>7/29/11 to Steve Shahbazian in the amount of \$5,625.00 (Order settling the 2<sup>nd</sup> account allowed attorney fees of \$4,870.00, a difference of \$755.00)</li> <li>12/10/11 to Shawn Huggins Law Firm in the amount of \$2,500.00</li> <li>1/6/12 to Steve Shahbazian in the amount of \$404.62</li> <li>1/19/12 to Shawn Huggins Law firm in the amount of \$539.00</li> <li>4/10/12 to Steve Shahbazian in the amount of \$47.00.</li> </ul> <p>2. According to the accounting the Conservatee rents the residence in which she resides from the Conservator. The monthly rent appears to be \$1,350.00 however the disbursement schedule shows that the rent was over paid by \$2,086.00.</p> <p><b>Please see additional page</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td><b>Reviewed by: KT</b></td> </tr> <tr> <td><b>Reviewed on: 11/28/12</b></td> </tr> <tr> <td><b>Updates:</b></td> </tr> <tr> <td><b>Recommendation:</b></td> </tr> <tr> <td><b>File 3B - Parks</b></td> </tr> </table>	<b>Reviewed by: KT</b>	<b>Reviewed on: 11/28/12</b>	<b>Updates:</b>	<b>Recommendation:</b>	<b>File 3B - Parks</b>
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**3B**

3. Disbursement schedule includes payments to Costco for groceries and supplies that appear to be excessive. Court may require more information.

3/1/10 - \$324.65

3/1/10 - \$102.81 (why 2 separate charges on the same day totaling \$427.46?)

4/5/10 - \$104.58

4/5/10 - \$47.84 (why 2 separate charges on the same day totaling \$152.42?)

5/3/10 - \$201.06

5/3/10 - \$152.54 (why 2 separate charges on the same day totaling \$353.60?)

1/3/11 - \$274.11

1/3/11 - \$281.66

1/3/11 - \$168.30 (why 3 separate charges on the same day totaling \$724.07?)

7/5/11 - \$184.46

7/5/11 - \$301.66

7/5/11 - \$77.16 (why 3 separate charges on the same day totaling \$563.28?)

9/8/11 - \$440.69

9/8/11 - \$125.21

9/8/11 - \$247.72 (why 3 separate charges on the same day totaling \$813.62?)

10/3/11 - \$254.45

10/3/11 - \$378.23 (why 2 separate charges on the same day totaling \$632.68?)

11/2/11 - \$314.36

11/2/11 - \$47.68

11/2/11 - \$279.77 (why 3 separate charges on the same day totaling \$641.81?)

12/5/11 - \$106.68

12/5/11 - \$343.25

12/5/12 - \$12.46 (why 3 separate charges on the same day totaling \$426.39?)

1/3/12 - \$292.40

1/3/12 - \$48.33

1/3/12 - \$178.34 (why 3 separate charges on the same day totaling \$519.07?)

2/6/12 - \$158.21

2/6/12 - \$51.56

2/6/12 - \$139.24

2/6/12 - \$235.01 (why 4 separate charges on the same day Totaling \$584.02?)

4/3/12 - \$208.57

4/3/12 - \$206.63

4/3/12 - \$663.97 (why 3 separate charges on the same day totaling \$1,079.14?)

5/4/12 - \$657.89

5/4/12 - \$449.51 (why 2 separate charges on the same day totaling \$1,107.40?)

4. Disbursement schedule shows a payment of \$300.00 to Republic Trash on 9/12/11. This amount is much larger than the other payments to Republic Trash. Court may require clarification.
5. Disbursement includes entries that may require additional information.
  - 5/7/10 to Connie Rana for reimbursement for groceries in the amount of \$405.00.
  - 11/30/10 to Connie credit card on for Ft. Dr. Diapers in the amount of \$756.01.
  - 12/28/10 to Connie reimbursement expenses in the amount of \$301.60
  - 1/20/11 Home Health care cash paid out in the amount of \$500.00.
  - 1/25/11 Check cash and re-deposited in the amount of \$350.00
  - 2/17/11 Home care help – cash paid out in the amount of \$400.00
  - 4/13/11 Connie groceries card for Sandy in the amount of \$250.00
  - 3/29/11 Sandra Martin reimburse grocery and cards in the amount of \$372.40
  - 3/17/11 Home warranty on appliances in the amount of \$396.13 - Conservatee is a renter why would she be paying for the home warranty on appliances?
  - 8/23/11 Rano Final Accounting in the amount of \$1,234.00
  - 8/29/11 Furniture for vacant room in the amount of \$2,700.00. Why is a vacant room being furnished and why is this furniture not listed on the property on hand schedule as an asset of the conservatorship?
  - 8/30/11 Bedroom Chair to replace vacant in the amount of \$1,102.64. Why is this chair not listed on the property on hand schedule as an asset of the conservatorship?
  - 8/30/11 Sandra Martin severance pay in the amount of \$5,000.00
  - 8/31/11
    - RC Willey sofa - \$56.85
    - RC Willey Chair - \$102.75
    - RC Willey New home person care \$373.98
    - RC Willey reimbursement for furniture - \$1,180.45, again, why is this property not listed on the property on hand schedule as an asset of the conservatorship?
  - 9/6/11 Marshalls Firmer sofa - \$165.31
  - 9/6/11 RC Willey Sofa TV Chair - \$373.98. Why is this property not listed on the property on hand schedule as an asset of the conservatorship?
  - 4/23/12 – Walmart fans reimbursements - \$401.00

**Please see additional page**

6. Petition indicates the conservator is waiving her fees however the disbursement schedule appears to indicate the conservator has been paying herself a monthly salary without court order.

1/15/10 – Reimb Connie for sheets, rx, gas - \$500.00

4/19/10 - auto fuel reimbursement - \$400.00.

10/20/10 – reimburse for cas/oil/time & transport - \$500.00

12/20/11 - Dec Mgt fee/shopping/home care/gas/bills etc - \$500.00

1/25/12 – Transport/gas/home care/apt - \$500.00

2/28/12 – Transport/gas/shopping/home care/appts - \$500.00

3/30/12 – Transport/gas/shopping/home care/appts - \$500.00

4/30/12 – Transport/gas/shopping/home care/appts - \$500.00

5/29/12 – Transport/gas/shopping/home care/appts - \$500.00

6/18/12 – Transport/gas/shopping/home care/appts - \$500.00

**Objections of the Public Guardian filed on 11/20/12 states the Public Guardian has reviewed the fourth and final account and has the following concerns:**

1. Because of the lack of description, it is not possible to ascertain if the value given for the cars is accurate.
2. Furniture purchased on 8/29/11 for a vacant room. It does not seem that this expense should be borne by the conservatorship estate.
3. On 8/30/11, there was a severance payment made to one of the care providers in the amount of \$5,000.00. The Public Guardian has never paid severance to their care provider, nor has any care provider ever asked for one.

This is a case that was referred to the Public Guardian after the conservatee had already moved to Nevada. The Public Guardian's objections are based mostly on their regular practices and understanding of appropriate expenses. If the court determines that a surcharge is appropriate, the Public Guardian notes that she will seek fees for her and her attorney for the services they have provided to the Court in this matter.

## (1) First and Final Account and Report of Special Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution

<b>DOD: 1-1-2000</b>		<b>PUBLIC ADMINISTRATOR</b> , Special Administrator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		Account period: 3-27-12 through 6-6-12	<b>1. Two heirs, David Polin and Anthony Polin, Sr., filed Assignments of Interest for a portion of their shares (\$1,000.00 each) to "Ken and Albeza Kemmerrer." This Amendment only refers to David Polin's assignment, and only assigns to Ken Kemmerrer, without Albeza. Need clarification.</b>
<b>Cont. from 081612, 092012, 102512</b>		Accounting: \$50,100.00	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Beginning POH: \$45,000.00	
<input checked="" type="checkbox"/>	<b>Verified</b>	Ending POH: \$45,963.69 (cash)	
<input checked="" type="checkbox"/>	<b>Inventory</b>	Public Administrator (Statutory): \$2,004.00	
<input checked="" type="checkbox"/>	<b>PTC</b>	Public Administrator (Extraordinary): \$1,248.00 (for sale of real property per Local rule and preparation of tax returns (1 Deputy hour @ \$96/hr and 2 Staff hours @ \$76/hr)	
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>	Attorney (Statutory): \$2,004.00 (to be split between County Counsel and Barrus and Roberts \$1,002.00 each)	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	Attorney Barrus and Roberts (Extraordinary): \$3,800.00 (itemized)	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> w	Bond fee: \$31.31 (ok)	
<input type="checkbox"/>	<b>Aff.Pub.</b>	Costs: \$446.00 (filing, certified copies)	
<input type="checkbox"/>	<b>Sp.Ntc.</b>	Costs: (Barrus and Roberts): \$97.00	
<input type="checkbox"/>	<b>Pers.Serv.</b>	Costs: (Ed Winchester): \$650.00	
<input type="checkbox"/>	<b>Conf. Screen</b>	<b>Distribution pursuant to intestate succession and Assignments filed 10-22-07:</b>	
<input type="checkbox"/>	<b>Letters</b>	Arthur Polin, Jr.: \$5,947.23	
<input type="checkbox"/>	<b>Duties/Supp</b>	Anthony Polin, Sr.: \$5,947.23	
<input type="checkbox"/>	<b>Objections</b>	Ken Kemmerrer: \$1,000.00	
<input type="checkbox"/>	<b>Video Receipt</b>	David G. Polin: \$5,947.23	
<input type="checkbox"/>	<b>CI Report</b>	Beatrice Valdez: \$5,947.23	
<input checked="" type="checkbox"/>	<b>9202</b>	Josephine Bourbon: \$5,947.23	
<input checked="" type="checkbox"/>	<b>Order</b>	Anthony Aldama: \$5,947.23	
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<b>Reviewed by:</b> skc
<b>Reviewed on:</b> 11-27-12
<b>Updates:</b>
<b>Recommendation:</b>
File 4 - Polin





**Petitioner specifically objects to the following items in Bruce Bickel's accounting:**

- \$1,000.00 for riding lawnmower on 4-3-08 – Petitioner states the property that it was purchased for is a regular city lot with a front yard of approx. 10x30 with no lawn in the back yard, having all fruit trees and grapevines in the back. In addition, \$275.00 paid to Bernie Mesa on 4-23-09 to disc the weeds, \$1,035.00 paid to City of Los Banos for weed abatement, and \$274.00 for weedeater on 8-12-09. Petitioner states the caretaker received payments of approx. \$7,102.60, but did not provide mowing or weeding services. Petitioner is informed and believes there was an operating Ford tractor and disc on the property that were trust assets and should have been used for this maintenance.
- Expenditures of \$800.00 paid to American Express by check #1035 on 7-30-08 are not explained in this report, and absent adequate explanation, should not be approved and the trustee should not be credited with that expenditure.
- Disbursements totaling \$610.11 for telephone bills at a vacant building are objected to as shown on Page 3 of the category detail report.
- Utility expenditures paid to PG&E shown on pages 3 and 4 of the category detail report ranging from \$342-\$572 per month for a vacant building are objected to as unreasonably high and beyond the possible need for keeping utility service in place.
- Expenditures to City of Los Banos for water bills ranging from \$69.05 to \$425.55 are objected to as unreasonably high and not related to trust business for a vacant building when the minimum water and garbage was only \$58.11 at the time.
- Expenditures for bond premium as being unnecessarily high because the bond was retained in an amount higher than was required by the Court, which reduced the bond amount to \$2.9 million on 4-18-08. The premium of \$10,500.00 paid 3-30-08 and again on 2-11-09 reflects that the bond amount must not have been reduced pursuant to the Court's order, and the trustee should be surcharged for payments for the excessive bond.
- \$2,279.00 paid to Allied Insurance on 8-26-08 as unreasonably high, as only general liability insurance was needed by the trust on the 28 acres on Overland Road as there are no structures on the Overland Road property and premium should only have been about \$600.00 for general liability, of which only half should have been paid by the trust as co-tenant. Further, the farm tenant should have the trust listed as an additional insured on his own farm general liability policy, which should have reduced or eliminated the need for this expenditure.
- Petitioner objects to the 7-31-08 property tax bill for farm equipment because the farm equipment was no longer in existence and had been sold prior to this time, and according to the caretaker, Petitioner is informed and believes that the only farm equipment remaining at the time was one small Ford tractor (1950 model) and a disc.
- Petitioner objects to payment of property taxes for parcel 082-050-066 which are strictly for the 10 acres with structures on which beneficiary has no interest in.
- \$12,835.42 for APN 081-110-007 because this payment is for 100% interest in the whole 28 acres and only ½ of the property taxes should have been paid by the trustee out of trust assets, as the other ½ was owned by Colleen Toscano as an individual.

**SEE ADDITIONAL PAGES**

## Page 3

- Petitioner objects to the Trustee's fees and requests that the Court order that the trustee inform the Court how these fees were calculated and provide an itemized statement of time spent and description of task by the trustee rather than the non-descriptive line item shown at pages 5 and 6 of the category detail report.
- It appears to Petitioner from the memorandum that the trustee had not viewed the property at the time of preparation of the accounting and did not know what items belonged to the trust at that time.
- Petitioner objects that the report shows no option payment receipts. If no option payments or extension payments were made when due, then the trustee breached his duty to use reasonable care in management by failing to list the Overland property for sale, thereby unnecessarily permitting the property specifically devised to Petitioner to depreciate during a declining real estate market.
- Petitioner objects that the report does not show that the trustee filed any fiduciary income tax return from May 07-08, 08-09, or any other accounting period if the tax filing period was changed by the trustee.
- Petitioner alleges that the trustee has breached his duty to use reasonable care, skill and caution in protection and management of the trust estate by the foregoing expenditures and actions, and that he has breached his duty of impartiality between trust beneficiaries by charging expenditures to the trust which are for the benefit of Colleen Toscano as an individual co-tenant and by charging expenditures which are solely to benefit trust assets which would pass to Colleen Toscano as part of the residue and charging them against Petitioner's share, who is a specific devisee of the Overland Road property.
- Petitioner alleges that the trustee has breached his duty to act with impartiality between the beneficiaries by actively participating in the litigation of Petitioner's petition to construe the trust on the side of Colleen Toscano, which was solely for the benefit of Colleen Toscano, because regardless of how the Court ruled in the hearing on that petition, the result would have had absolutely no effect on the overall trust corpus and estate, and therefore, his active engagement was solely on behalf of and for the benefit of beneficiary Colleen Toscano and was hostile to and against the interest of Petitioner as beneficiary.

**Petitioner prays for an order that:**

1. The trustee be required to supplement and explain his informal report and accounting in the particulars set forth herein above;
2. The Court disallow the credits which the trustee claims to be entitled to regarding the disbursements and expenditures objected to herein and that the trustee's fees be surcharged therefor;
3. The trustee file with the Court the itemized statement of time spent with specific description of services rendered for the trustee's fees as shown on the accounting provided to Petitioner, and that the Court disallow all or any portion of said fees that are not shown to be reasonable and for the benefit of the entire trust estate, and that no part of the fees be charged against Petitioner's share except those which are specifically and directly related to the Overland Road property which is the specific devise to Petitioner;
4. The trustee be ordered to reduce the bond amount to comply with the Court's order of 4-19-08 if he has not already done so;
5. The trustee be removed for the reason of his breaches of trust as alleged herein above;
6. The former trustee James Wagner prepare and file an accounting for his actions as trustee from 4-1-07 through 1-31-08; and
7. For such other and further relief as the Court deems proper.

6A  
Atty  
Atty

**Pellegrini Trust**

Dankbar, Kelly E. (of Sacramento, for Petitioner Marleen Merchant)  
Pellegrini, Lillian (Pro Per – Respondent)

Case No. 10CEPR00683

Petition (1) For Removal of Trustee and For Appointment of Successor Trustee;  
(2) For Suspension of Powers of Trustee and For Appointment of Temporary Trustee;  
(3) To Compel Trustee to Account to Beneficiaries; and (4) To Compel Trustee to  
Redress Breach of Trust [Prob. C. 15642(b)(1), 15642(e); 16420, 17200(b)(10), 17200(b)(12)]

			NEEDS/PROBLEMS/COMMENTS:  <u>Examiner Notes Not Posted.</u>	
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
✓	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 8-27-12	
			Updates: 11-27-12	
			Recommendation:	
			File 6A - Pellegrini	

6A

**Motion to Dismiss Petition for Removal of Trustee and for Appointment of Successor Trustee for Suspension of Powers of Trustee and for Appointment of Temporary Trustee, to Compel Trustee to Account to Beneficiaries, to Compel Trustee to Redress Breach of Trust (Prob. C.15800, 15642(e), 16420, 17200(b))(10)**

			<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Examiner notes are not prepared for this Motion.</u></p>
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 11-27-12
			Updates:
			Recommendation:
			File 6B - Pellegrini

**Atty**

**Dankbar, Kelly E. (of Sacramento, for Petitioner Marleen Merchant)**

**Atty**

**Pellegrini, Lillian (Pro Per – Respondent)**

Demurrer to Dismiss Petition [Prob. C. 15800; 16069; Code Civ. Proc. 430.10]

			<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Examiner notes are not prepared for this Demurrer due to Court review.</u></p>
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCC/JEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 11-27-12
			Updates:
			Recommendation:
			File 6C - Pellegrini

6C

**Petition for Settlement of First Account Current and Report of Trustee, Approval of Attorney's Fees and Costs, Approving Reduction of Bond and Waiving Future Accountings [Prob. C. 2628(a), 3600, et seq., Cal. Rules of Ct. Rule 7.903(c)]**

<b>Age: 14 years</b>		<b>STEVEN WILLEY</b> , father/Trustee, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		Account period: 6/27/11 – 5/31/12	
		Accounting - <b>\$53,942.25</b>	<p><b>Continued from 10/25/12. Minute Order states counsel advises the court that he has attempted to contact his client as there are still some questions he has no answers. Counsel directed to submit an additional declaration. As of 11/27/12 the following issues remain:</b></p> <ol style="list-style-type: none"> <li>1. The order approving the establishment of this special needs trust allowed reimbursement to the attorney of a filing fee in the amount of \$395.00 upon review, it has been discovered that the filing fee charged was \$200.00 and not \$395.00. It appears that the attorney should reimburse the trust \$195.00 for the difference in the amount approved for reimbursement and the amount actually paid.</li> <li>2. This petition also request reimbursement of costs (filing fee) in the amount of \$435.00. The actual filing fee paid was \$200.00.</li> <li>3. Petition states that the Petitioner has not hired any person who has a family or affiliate relationship with the Petitioner however the invoices for remodel work done on the home is by K Steven Willey. The court may require clarification.</li> </ol>
<b>Cont. from 102512</b>		Beginning POH - <b>\$53,317.25</b>	
	<b>Aff.Sub.Wit.</b>	Ending POH - <b>\$ 6,565.67</b>	
✓	<b>Verified</b>	<b>Current bond : \$60,317.25</b>	
	<b>Inventory</b>	Trustee - <b>Not addressed</b>	
	<b>PTC</b>		
	<b>Not.Cred.</b>	Attorney - <b>\$3,876.00</b>	
✓	<b>Notice of Hrg</b>	(5.40 hours attorney time @ \$195 - \$335 per hour and 17.0 hours paralegal time at \$125 - \$130 per hour and 2 hours of attorney time @ \$335/hr in anticipated time.)	
✓	<b>Aff.Mail</b>	Costs - <b>\$435.00</b> (see note #2)	
	<b>Aff.Pub.</b>	Petitioner requests bond be reduced to \$7,222.24/	
	<b>Sp.Ntc.</b>	Petitioner requests that pursuant to Probate Code §2628(a) future accountings be waived.	
	<b>Pers.Serv.</b>	<b>Petitioner prays for an Order that:</b>	
	<b>Conf. Screen</b>	1. The first account of trustee be settled, allowed and approved as filed, and all the acts and transactions of Petitioner be ratified approved and confirmed;	
	<b>Letters</b>	2. Petitioner be authorized to pay attorney fees totaling \$4,176.00 and \$435.00 in costs;	
	<b>Duties/Supp</b>	3. Bond for Steven Willey be reduced to \$7,222.24;	
	<b>Objections</b>	4. Petitioner need not present future accountings as long as the estate continues to meet the requirements of Probate Code §2628.	
	<b>Video Receipt</b>		
	<b>CI Report</b>		
✓	<b>2620</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		

**Please see additional page**

**Reviewed by: KT**

**Reviewed on: 11/27/12**

**Updates:**

**Recommendation:**

**File 7 - Willey**

**Note:** Petition states Petitioner made personal loans to himself of Trust funds in the total amount of \$11,538.61 with interest at 2% per annum. Petition states the Petitioner did not consult with his attorney before taking the loans. Petitioner has made three payments on the loan and offset portions of the loans for additional expenses incurred to renovate the house and to install the swing equipment for Michael in the back yard. The final payment on the loans was made by the Petitioner on 6/21/12, after the account period. Based on the payment on 6/21/12 the loans have been paid in full.

**NEEDS/PROBLEMS/COMMENTS (continued):**

4. Petition states that at the hearing approving the Special Needs Trust, the notes of Steven Matlak, Counsel for Petitioner, reflect that he discussed Petitioner's plan to modify his home for the benefit of Michael Willey. Mr. Matlak's notes further reflect Judge Robert H. Oliver stated at the hearing that no further court approval was needed for modifications to the house that fit within the meaning of "special needs." Not all the work done on the home appears to be for the "special needs" of the beneficiary, such as the new roof, skylights, attic fan, bath fan and rain gutters. Those items appear to be for the benefit of the family and not the "special needs" of the beneficiary.
5. There are several disbursements for renovations of the home. Several of the disbursements show a total amount and another amount for "Mike's Portion". It is unclear how Mike's portion is determined sometimes it is 1/7 and other times it is much more. The court may require clarification.
6. On 7/22/11 there is a disbursement to Lumber Liquidators for removal of existing carpet in bedroom, hallway and entry to replace with wood flooring allowing easier wheelchair access. Then on 10/31/11 there is another disbursement for tile work in entry, hallway, bathroom and den. Why are there charges for both wood flooring and tile in the hallway and entry?
7. On 7/22/11 there is a disbursement to Lumber Liquidators for removal of existing carpet in bedroom, hallway and entry to replace with wood flooring allowing easier wheelchair access. Then on 10/31/11 there is another disbursement for tile work in entry, hallway, bathroom and den. There is also an invoice from K. Steven Willey dated 9/20/11 that is for labor to remove old wood flooring in entry area and hallway. Labor to install wood flooring in Mike's bedroom, Labor to demo hallway, entry and living area. Labor to prepare hallway, entry area and living room for new tile and the purchase of 2 nail guns to install subflooring and wood floors. There are charges for both wood flooring and tile flooring for the same areas from several different vendors. Court may require clarification. Who installed the wood flooring? Who installed the tile flooring? What area was tile and what area was wood flooring?

(1) Petition for Final Distribution on Waiver of Account and (2) for Allowance of Compensation to Attorneys for Ordinary Services [Prob. C. 10954, 11640, 10810; C.R.C. 7.550, 7.553]

<b>DOD: 12/02/10</b>		<b>GEORGE B. FEIST</b> , Executor, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		Accounting is waived.	<p>1. Examiner calculates the amount to be distributed to each beneficiary as \$114,987.88. Need revised Order.</p> <p><b>Note:</b> If counsel would prefer, the submitted Order may be interlineated to reflect the correct distribution amount.</p>
<b>Cont. from</b>		I & A - <b>\$260,992.03</b>	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	POH - <b>\$360,177.03</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>	(\$360,128.98 is cash)	
<input checked="" type="checkbox"/>	<b>Inventory</b>	Executor - <b>Not addressed</b>	
<input checked="" type="checkbox"/>	<b>PTC</b>	Attorney - <b>\$10,154.32</b> (statutory)	
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>	Costs - <b>\$254.60</b> (for filing fees, publication, probate referee less previously paid reimbursement)	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	Closing- <b>\$4,756.40 plus 5 shares of Imation stock</b>	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	<b>Distribution, pursuant to decedent's Will, is to:</b>	
<input type="checkbox"/>	<b>Aff.Pub.</b>	Michael T. Feist- \$114,998.22	
<input type="checkbox"/>	<b>Sp.Ntc.</b>	George B. Feist - \$114,998.22	
<input type="checkbox"/>	<b>Pers.Serv.</b>	Katherine I. Arroyo - \$114,998.22	
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>	03/09/12	
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input checked="" type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by:</b> JF
			<b>Reviewed on:</b> 11/26/12
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 8 - Feist</b>



Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

**Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustee Fees [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]**

Frank DOD: 8/15/2006		<p><b>BARBARA L. PEARSON</b>, Trustors' daughter, Trust Beneficiary and Successor Trustee of the <b>LABREE FAMILY TRUST</b>, is Petitioner.</p> <p>Account period: 3/25/2011 – 2/29/2012</p> <p>Accounting - <b>\$1,735,662.68</b>  Beginning POH - <b>\$1,627,499.40</b>  Ending POH - <b>\$1,563,236.09</b>  (\$1,899,065.77 is cash; cash balance exceeds ending property on hand balance due to negative \$518,182.00 amount held in constructive trust by Trustee for the benefit of the Frank H. LaBree Exemption Trust.)</p> <p>Trustee - <b>\$25,066.50</b>  (per Declaration filed 11/14/2012 containing itemization for 294.90 hours @ \$85.00/hour. NOTE: Trustee has previously been paid compensation of <b>\$14,302.50</b> (not itemized) from the Trust for this account period without court order per Trust terms entitling Trustee to reasonable compensation for services rendered as Trustee; )</p> <p>Attorney - <b>\$53,312.30</b> (paid)  (to Dowling Aaron &amp; Keeler/Dowling Aaron, as listed in Disbursements schedule; not itemized other than for legal fees)</p> <p>Accountant - <b>\$1,405.00</b> (paid)  (to Erickson &amp; Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson &amp; Assoc.)</p> <p><b>Petitioner states:</b></p> <ul style="list-style-type: none"> <li><b>ROBERTA LABREE</b> and <b>FRANK H. LABREE, Jr.</b>, created the <b>LABREE FAMILY TRUST</b> on 4/13/1981, as amended on 5/2/1984, and as amended in full on 12/20/1991, and were the original co-trustees until Frank's death on 8/15/2006, when Roberta became the sole Trustee, and the Trust served as the Survivor's Trust for Roberta;</li> </ul> <p><b>~Please see additional page~</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note: Related LaBree Trust matters are as follows:</b></p> <ul style="list-style-type: none"> <li>Page 9 – The LaBree Family Trust as amended and restated 12/20/1991.</li> <li>Page 11 – Frank H. Labree Exemption Trust.</li> <li>Page 12 – Frank H. Labree Irrevocable Trust.</li> <li>Page 13 – The LaBree Irrevocable Trust.</li> </ul> <p>1. Need proposed order.</p>	
Roberta DOD: 3/25/2012				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W /
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

**Petitioner states, continued:**

- Upon Roberta's death on 3/25/2012, Petitioner Barbara L. Pearson became and is currently the Successor Trustee; (copy of Second Amendment to Declaration of Trust attached as Exhibit A);
- Pursuant to probate Code § 17200, the Trustee is requesting Court review of the first account and of the acts of the Trustee, and submits her first account and report of administration of the Trust for settlement and allowance;
- During the period of administration of this account, Petitioner discovered excess income distributions totaling **\$60,756.82** were made in 2008, 2009 and 2010 to Roberta LaBree by the **FRANK H. LEBREE EXEMPTION TRUST**, of which Roberta was the sole beneficiary during her lifetime; this amount was paid to the LaBree Family Trust; at Roberta's death, income owed to her from the Exemption Trust for 2011 was **\$3,427.00**, which when applied to the 2011 amount owed for excess distributions leaves a balance owing of **\$57,329.82**; (please refer to Schedule J of the account); the full amount owed by the Family Trust of **\$57,329.82** has been paid to the Exemption Trust and will be reflected in the next account;
- During the period of administration of this account, Petitioner discovered the Family Trust had underfunded the Exemption Trust by **\$500,000.00**, which accrued interest of **\$18,182.00**, and the full amount of **\$518,182.00** has been paid to the Exemption Trust and will be reflected in the next account.

**Petitioner prays for an Order:**

1. Settling and allowing the First Account and Report of the Trustee, and ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee;
2. Ratifying and approving the Trustee's fees of **\$14,302.50** already paid from the Trust;
3. Authorizing payment of **\$25,066.50** to the Trustee for services rendered through 2/29/2012; and
4. Ratifying and approving the Attorney's fees of **\$53,312.30** already paid from the Trust.

**Objections to Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustees Fees; Request for Attorneys' Fees Pursuant to Probate Code § 17211(b) filed 11/16/2012 by TRACY SPREIER, Trustors' daughter and Trust Beneficiary, states she objects to the account filed by Barbara Person on the following grounds:**

- **Accounting includes an incredibly inflated and false appraisal for a faux diamond ring that was not a part of the family trust during a time of the account period:**
  - In December 2010, Trustor Roberta gifted a ring to Objector; when Roberta died on 3/25/2011, the gift of the ring had already been made at least three months before; accordingly, the ring was not a part of the Family Trust's assets on 3/25/2011, Roberta's date of death; 3/25/2011 is also the beginning date for the First Account;
  - The First Account states the value of the ring as of 3/25/2011 was **\$26,000.00**, shown on [Schedule G, Distributions in an entry dated 3/25/2011] for a distribution to Tracy Spreier of a diamond ring; this statement is false (contrary to Trustee's verification of the accounting), as the ring had already been given to the Objector as a gift by her mother;
  - As the entry pertaining to the ring is incorrect, the corresponding entry regarding the Trust's ownership of a diamond ring and other jewelry worth a total of **\$35,216.00** is also false;

**~Please see additional page~**

*Tracy Spreier's Objections to Petition for Settlement of First Account, continued:***Accounting includes an incredibly inflated and false appraisal for a faux diamond ring, continued:**

- Successor Trustee also materially misrepresents the value of the ring that was gifted to Objector by her mother in December 2010; accounting makes reference to an appraisal obtained for a ring and include an entry of **\$100.00** paid to have ring appraised, and Objector asserts that the ring appraised, if any ring was actually appraised, is not the same ring given to her by her mother in December 2010 which Successor Trustee alleges was distributed to Objector on 3/25/2011; the reason for this is that Objector has been in possession of the ring ever since her mother gave it to her in December 2010, thus to the extent that any appraisal was prepared at Successor Trustee's request, the appraisal was either a totally fictitious appraisal or was based upon a ring other than the one give to Objector by her mother;
- Objector took the ring her mother had given to her in December 2010 to a Certified Gemologist Appraiser to obtain a professional appraisal of the ring's value, and the appraiser's conclusion is that the stones in the ring are cubic zirconium set in a sterling silver cast and die-struck ring with a value of **\$60.00** (please refer to copy of appraisal attached as Exhibit A);
- Objector believes that **TARA AHEARNE**, who was paid \$100.00 by Successor Trustee to state that the value of the ring given to Objector by her mother was worth **\$26,000.00**, is a friend of Successor Trustee's daughter; it can only be inferred that her appraisal was based solely on whatever was told to her by the Successor Trustee, as the appraisal could not have been based on an actual inspection of the ring in order to determine its attributes or value, as Objector was never asked to produce the ring for any inspection or appraisal, and never did so; no communication was ever made by the Successor Trustee to the Objector at any time about the ring;
- Because the ring appraisal obtained by the Successor Trustee was false and deceitful, she should be ordered to reimburse the Family Trust the **\$100.00** cost of the appraisal.
- **The Trustee paid for an appraisal of real property not owned by the Trust:**
  - *Schedule E, Disbursements* shoes an entry for an appraisal by **DIANA A. GARDA** of **\$1,077.00** for an appraisal of the South El Monte property; the real property owned by the Trust listed on *Schedule A Property on Hand* [at beginning of account period] shows only real property owned by Family Trust is Trustor's home in Bullhead Arizona and two timeshare interests; as there is no explanation given for an appraisal to be obtained by the Family Trust for the South El Monte property, the Successor Trustee should be ordered to reimburse the Family Trust **\$1,077.00** for that expenditure; South El Monte property is commercial property that was owned by the Family Trust and was gifted by their mother to Objector and her two sisters in 2010 to a partnership they owned.
- **The Court should not approve the reimbursement made to the Successor Trustee for the cost of an appraisal that was never used.**
- **The Court should not approve the Successor Trustee's action of selling the Family Trust's tax-free bond and certificate of deposit investments, then depositing the cash into extremely low interest-bearing bank accounts instead of distributing the assets to the beneficiaries.**
- **The Court should require the Successor Trustee's report to explain why its cash assets of over \$1.5 million are not being distributed.**

~Please see additional page~

*Tracy Spreier's Objections to Petition for Settlement of First Account, continued:*

- The Court should instruct the Successor Trustee to adhere to her fiduciary duty to deal impartially with the beneficiaries.
- Funeral costs are not an allowable expense under the terms of the Family Trust and should not be approved by the Court in light of the fact that the Trustor had a prepaid cremation and memorial plan.
- Family photograph reprints are not a trust expense that can be approved by the Court.
- The travel costs and other expenses purportedly related to the sale of the Trustor's residence and which were incurred by Successor Trustee's relatives are not allowable Trust expenses.
- The Successor Trustee's fee request should not be granted as it is not supported by any time records for the work done by her, and the accounting does not reflect the amount that the report states has already been paid to her by the Trust.
- The Court cannot ratify the amounts paid by the Successor Trustee to her attorneys for legal fees as they are not supported by any time records that show any justification for the amounts paid.
- The Court should award Objector her attorney's fees with regard to the objection to the accounting.
- **One of the named beneficiaries in the Trust, SEAN WOODS, was not given notice of the petition.** *[Note: Waiver of Notice on Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust signed by Sean Woods was filed on 11/21/2012.]*

**Objector requests:**

1. That Barbara Pearson as Successor Trustee be ordered to amend and correct the accounting for the Family Trust to delete the faux diamond ring as an asset of the Family Trust, and to make all other entries to the accounting that are necessary as a result of that correction, without any cost to the Family Trust;
2. That Barbara Pearson be ordered to pay the amount of **\$100.00** to the Family Trust as reimbursement for the false appraisal that was obtained for the faux diamond ring that was not even a Family Trust asset at the time that she became Successor Trustee;
3. That Barbara Pearson be ordered to pay the Family Trust the amount of **\$1,077.00** for the appraisal by Diana A. Garda of the South El Monte property that was not property of the Family Trust at the time that appraisal was obtained;
4. That Barbara Pearson be ordered to correct the accounting to reflect the value of the Trustor's residence at the time of the death, as determined by the appraisal prepared by Larry Stewart, and make all other entries in the accounting necessary to correct the accounting with regard to the sale of the residence, without any cost to the Family Trust, and that Barbara Pearson be ordered to pay the Family Trust **\$375.00**;
5. That Barbara Pearson be ordered to distribute all assets of the Family Trust among the three remaining beneficiaries of the Family Trust, except for any funds reasonably anticipated to be needed for future expenses and liabilities, and for the prudent investment of those funds in interest-bearing bonds;

**~Please see additional page~**

**Tracy Spreier's Objections to Petition for Settlement of First Account, continued:**

6. That Barbara Pearson be ordered to deal impartially with each of the Family Trust's beneficiaries and ordered that any future distributions to the three remaining beneficiaries of the Family Trust are to be in equal amounts to each of the three beneficiaries unless otherwise ordered by the Court, and that the Successor Trustee not reimburse any beneficiary or herself any costs or expenses unless and until first order by the Court;
7. That the Successor Trustee pay the Family Trust the amount of **\$1,537.06** that she improperly paid from the Family Trust for "funeral expenses;"
8. That the Successor Trustee pay the Family Trust the amount of **\$42.86** to reimburse it for the amount she improperly paid from the Family Trust for "family photograph reprints;"
9. That the Successor Trustee pay the Family Trust the amount of **\$6,899.08** to reimburse it for the amount of improper expenses paid by the Family Trust for travel and meal expenses of the beneficiaries to whom the Trustor's personal property was being distributed;
10. That the Successor Trustee's request for the ratification of the fees paid to her for her services as the Successor Trustee and the request for payment of additional fees be denied because of the lack of any entry in the accounting showing when the amount paid to the Successor Trustee for her services was actually paid, and because of lack of any evidence showing that the amount paid and the amount requested be paid is reasonable;
11. That the Successor Trustees' request for ratification of her act of paying Dowling Aaron & Keeler and Dowling Aaron the amount of **\$53,312.30** be denied because of lack of evidence showing that the payment of that amount was reasonable; and
12. That the Court award Objector the amount of her attorney's fees and costs, according to proof, pursuant to Probate Code § 17203 and against the Successor Trustee, Barbara Pearson, and that the award be paid to Objector as a charge against Successor Trustee's compensation or other interest she has in the Family Trust.

**Reply to Objections to Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust filed 11/26/2012 by Barbara Pearson, Trustee, states:**

- The ring, which does have an appraised value of \$26,000.00, was taken by Objector as a preliminary distribution of the Trust estate, and is properly included in the accounting to explain equalizing distributions required to other Trust beneficiaries.
- The appraisal of the South El Monte property was a proper Trust expense.
- The appraisal fee of \$375.00 was a proper Trust expense.
- The sale of the tax-free bond was appropriate and within the Trustee's discretion.
- The Trustee's lack of Trust distributions during the accounting period was appropriate and within her discretion.
- If the Court orders the Trustee to adhere to her fiduciary duty to deal impartially with Trust beneficiaries, as requested by Objector, Objector will lose \$42,748.00.
- Funeral costs are allowable expenses, and travel and meals are commonly covered estate administration expenses.
- Copies of family photographs were proper trust expenses.

*~Please see additional page~*

***Successor Trustee's Reply to Objections, continued:***

- **Travel costs related to the sale of the residence were proper Trust expenses.**
- **Documentation regarding Trustees fees has not been provided to Objector and to the Court.** *[Declaration filed 11/14/2012.]*
- **A separate attorney fee declaration will be submitted prior to the hearing.**
- **The Court should deny Objector's request for attorney fees for the objection.** There is no adjudication that the Trustee's defense of the accounting is frivolous; therefore, Objector's attorney is not entitled to fees.
- **M. Sean Woods filed a Waiver of Notice for the Hearing** *[on 11/21/2012.]*

**Petitioner requests the Court deny Objector's objection and grant the petition.**

Atty Baldwin, Kenneth A. (of McCormick Barstow, for Allene Joyce Lamm O'Neal – Co-Trustee – Petitioner)

Atty Poochigian, Mark (for Duane Lamm – Co-Trustee)

Petition to Compel Co-Trustee Duane Alan Lamm to File Report and Account After Written Request; to Remove Duane Alan Lamm as a Co-Trustee; to Redress Breaches of the Trust by Duane Alan Lamm; to Divide and Distribute the Trust Estate; and to Terminate the Trust [Prob. C. 15642 & 17200 et seq.]

<b>Alex Lamm</b> <b>DOD: 11-17-90</b>		<b>ALLENE JOYCE LAMM O'NEAL</b> , Co-Trustee, is Petitioner and states:	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Minute Order 9-20-12:</u> Paul O'Rourke [McCormick Barstow] is appearing via conference call. Mr. Poochigian advises the Court that he filed his objections this morning. The Court accepts Mr. O'Rourke's representation that no additional parties need to be provided notice. The Court notes that there is no objection by Mr. Poochigian regarding the issue of notice. At the request of Mr. O'Rourke, the Court orders Mr. Poochigian to prepare a formal accounting for the period commencing from the date of death to the present. The Court orders that the accounting to be completed by 11/19/12. Continued to 11/29/12, Status Conference Set on 11/29/12.  <u>As of 11-27-12, no accounting has been filed for Court review.</u>  <u>Attorney Poochigian filed a Declaration on 11-20-12.</u>  <u>See Page 10B re: Status.</u>  1. The proposed order includes a blank for a surcharge amount to be filled in for attorney's fees. The Court may require clarification and further documentation regarding the amount requested.
<b>Lillian Lamm</b> <b>DOD: 11-19-06</b>			
<b>Cont. from 092012</b>			
	<b>Aff.Sub.Wit.</b>		
✓	<b>Verified</b>		
	<b>Inventory</b>		
	<b>PTC</b>		
	<b>Not.Cred.</b>		
✓	<b>Notice of Hrg</b>		
✓	<b>Aff.Mail</b>	W	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		

• Trustors Alex and Lillian created the Alex and Lillian Lamm Living Trust (the "Trust") on 3-11-88.  
 • The Trust was amended and restated on 9-21-90.  
 • Alex died on 11-17-90, causing the trust to be divided among the Alex Lamm By-Pass Trust, the Alex Lamm Marital Trust, and the Lillian G. Lamm Survivor's Trust, which remained revocable.  
 • The Survivor's Trust was amended twice: on 6-7-04 and 2-17-05.  
 • Lillian died on 11-19-06.  
 • For purposes of this petition, "Trust" refers to all three trusts collectively.

Petitioner states the Trust provides that she and her brother **DUANE ALAN LAMM** were to become co-trustees on the death of the Trustors; however, since Lillian's death, Duane has asserted exclusive control over most of the assets of the Trust.

The Trust as amended provides that the Marital Trust and the By-Pass Trust are to terminate and be distributed to Duane and Allene in equal shares immediately following Lillian's death.

The Survivor's Trust as amended provides that the Survivor's Trust is to terminate at Lillian's death and is to be distributed as follows:

- To **BLAKE LAMM** (Trustors' grandson) a fractional portion (56.64%) of the Survivor Trust's ownership interest (45.56%) in certain real property in Reedley consisting of approx. 76 acres; and
- To **DUANE** and **ALLENE**, the residue of the Survivor's Trust estate, in equal shares, which includes that the share apportioned to **ALLENE** is to include a certain residence ("Allene's Residence") and that the share apportioned to **DUANE** is to include the Trustors' residence, without affecting the equality of the shares.

**SEE ADDITIONAL PAGES**

## Page 2

## Petitioner states:

- The Trust Estate includes real estate, corporate stock, gemstones and cash, including an undivided 75% ownership interest as tenant in common in certain commercial real property consisting of an office building (the "commercial building") in Reedley, which is leased to Chase Bank. (The other 25% is owned by Duane's former spouse, Linda W. Lamm.)
- Petitioner states that since Lillian's death, Duane has been and continues to collect all rent from the Commercial Building personally and deposits same into his bank account without Allene's consent and in breach of the terms of the Trust.
- The Trust Estate also includes gemstones and precious metals, including specified items, and a Wells Fargo checking account, which is under Duane's exclusive control in breach of the terms of the Trust.
- The Trust Estate also includes 55% of the issued and outstanding common stock of Al Lamm Ranch, Inc., a California corporation. Allene and Duane each own 22.5%. Petitioner states Duane possesses and controls all of the assets of the Corporation and uses those assets for the exclusive benefit of his personal farming operations to the detriment of the Corporation and its majority owner, the Trust.
- The 76 acres of farmland (the "Home Ranch") located in Reedley is owned by the Trust and leased to Rio Vista Limited Partnership under a lease dated 10-1-05 that expires 9-30-20. Petitioner states all rent from the Home Ranch has been and continues to be collected by Duane and deposited in his personal accounts over which he has exclusive control. Duane has not provided Allene with any accounting nor made any distributions of such rental income to Allene in breach of the Trust.

*Examiner's Note: It is unclear if this is the same 76 acres as is specified in the devise to Blake Lamm, since the devise indicates that the Trust owns only a partial interest of 45.56%, but this section of the petition indicates that the Trust owns this real property. The Court may require clarification.*

- Petitioner states that at Lillian's death, Duane unilaterally assumed the primary duties of administering the Trust Estate, and appointed himself as the Trust decision maker and used his knowledge of the family holdings to single-handedly control the management of the Trust Estate while excluding Allene as a trustee in violation of Probate Code § 15620, which requires unanimous consent of co-trustees for action. Specifically, Petitioner states Duane has insisted on exercising exclusive control over the Commercial Building, Home Ranch and Corporation because those assets provide him with his primary source of income. Duane also holds physical possession of the specified gemstones and precious metals.
- Petitioner states she formally demanded an accounting and proposed division and distribution of the Trust Estate in a letter to Duane's attorney Mark Poochigian on 5-17-12, which letter has been ignored. Duane appears reticent in providing a full and complete disclosure of this acts and proceedings involving the Trust and has been less than forthcoming in his response to Allene's requests for information. Because of Duane's refusal to provide information and his exclusive control over the assets, including all bank accounts, for over five years, Duane should be directed to file full accounting.
- Petitioner states Duane has committed numerous breaches of trust by collecting all rents in connection with the Commercial Building and Home Ranch and depositing them into his personal accounts. By doing so, he has converted assets – a clear breach of trust.
- Duane has personally benefitted from his exclusive control and use of the equipment owned by the Corporation, the controlling shares of which are owned by the Trust. Neither the Corporation nor the Trust has received any benefit from Duane's personal use of such equipment.
- Petitioner further alleges that Duane has taken unauthorized withdrawals of cash from the Trust – another clear breach of the Trust and Probate Code § 15620 – without her consent, and no equalizing distributions have been made to Petitioner.

**SEE ADDITIONAL PAGES**



## Page 3

- Finally, Duane has refused for well over five years to cooperate with Petitioner in division and distribution of the Trust Estate to the beneficiaries notwithstanding the terms of the Trust which require termination and immediate division and distribution following Lillian's death.
- Probate Code § 15642 empowers this Court to remove a trustee who has committed a breach or whose hostility or lack of cooperation with the other co-trustees impairs the administration of the Trust. Redress should also include removal of Duane as a co-trustee for his conversion of assets, unauthorized withdrawals, and refusal to cooperate. Such redress will allow Petitioner as the sole trustee to complete the necessary division and distribution as required by the express terms of the Trust.
- Redress should also include attorneys' fees and legal costs, as Petitioner has been forced to take extreme measures to compel Duane to carry out his fiduciary duties. Section 1 (f) of the Trust allows the trustee to employ attorneys on behalf of the trust to assist in carrying out her duties. Petitioner, in carrying out her duties, has been required to retain counsel and incur legal costs to compel Duane to carry out his duties. Such fees and costs should be surcharged against Duane's beneficial interest in an amount according to proof.
- The Trust was to terminate on Lillian's death, which was over five years ago. Duane has refused to cooperate with Allene in dividing and distributing the Trust Estate to beneficiaries in accordance with the express terms of the Trust. Under Probate Code §§ 17200(b)(13) and (14), this Court has the authority and should order termination and distribution.

**Petitioner requests the Court Order:**

- **That Duane be directed to prepare and file within 30 days an account of the Trust from Lillian's death (11-19-06) through present, accompanied by a schedule of property, current market value, and all liabilities of the Trust;**
- **That Duane be compelled to restore to the Trust all Trust assets that he has converted for his personal use and benefit;**
- **That Duane be compelled to either return to the Trust all unauthorized cash advances that he has taken from the Trust Estate as described, plus interest at the max. legal rate, or in the alternative, be compelled to cause the Trust to make an equalizing distribution to Allene, plus interest;**
- **That Duane be removed as a co-trustee of the Trust;**
- **Directing that the Trust be terminated and the Trust Estate be divided and distributed to the Trust beneficiaries in accordance with the express terms of the Trust;**
- **For attorneys' fees and legal costs incurred by Petitioner in connection with this Petition to be surcharged against Duane's share of the Trust Estate; and**
- **For such other and further orders and relief as the Court may deem appropriate.**

Atty Baldwin, Kenneth A. (of McCormick Barstow, for Allene Joyce Lamm O'Neal – Co-Trustee – Petitioner)

Atty Poochigian, Mark (for Duane Lamm – Co-Trustee)

## Status Conference

Alex Lamm DOD: 11-17-90		ALLENE JOYCE LAMM O'NEAL, Co-Trustee, filed a Petition to Compel Co-Trustee <b>DUANE ALAN LAMM</b> to File Report and Account After Written Request; to Remove <b>DUANE ALAN LAMM</b> as a Co-Trustee; to Redress Breaches of the Trust by <b>DUANE ALAN LAMM</b> ; to Divide and Distribute the Trust Estate; and to Terminate the Trust.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Minute Order 9-20-12:</u> Paul O'Rourke [McCormick Barstow] is appearing via conference call. Mr. Poochigian advises the Court that he filed his objections this morning. The Court accepts Mr. O'Rourke's representation that no additional parties need to be provided notice. The Court notes that there is no objection by Mr. Poochigian regarding the issue of notice. At the request of Mr. O'Rourke, the Court orders Mr. Poochigian to prepare a formal accounting for the period commencing from the date of death to the present. The Court orders that the accounting to be completed by 11/19/12. Continued to 11/29/12, Status Conference Set on 11/29/12.
Lillian Lamm DOD: 11-19-06			
Cont. from		On 9-20-12, at the request of Mr. O'Rourke, the Court ordered Mr. Poochigian to prepare a formal accounting for the period commencing from the date of death to the present be completed by 11-19-12.	<u>Examiner notes that an accounting (attached to Declaration) was sent to Petitioner's attorney; however, the accounting was not filed as a Petition for Court review. Therefore, Examiner has not reviewed the schedules.</u>
Aff.Sub.Wit.			
Verified		On 11-20-12, Mr. Poochigian filed a Declaration stating that his office sent a letter to Kenneth Baldwin's office on 11-19-12 enclosing an accounting from 11-19-06 through 10-31-12 (attached).	<u>If the Co-Trustee's Accounting is to be reviewed by the Court, need Petition with appropriate filing fee.</u>
Inventory			
PTC		1. Need status.	Reviewed by: skc
Not.Cred.			
Notice of Hrg		Reviewed on: 11-27-12	Updates:
Aff.Mail			
Aff.Pub.		Recommendation:	File 10B - Lamm
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

**Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)**

**Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Exemption Trust, Established Under the LaBree Family Trust [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]**

Frank DOD: 8/15/2006		<p><b>BARBARA L. PEARSON</b>, Trustors' daughter, Trust Beneficiary and Successor Trustee of the <b>FRANK H. LABREE EXEMPTION TRUST</b>, is Petitioner.</p> <p>Account period: 3/25/2011 – 12/31/2011</p> <p>Accounting - <b>\$1,390,384.39</b>  Beginning POH - <b>\$1,381,667.76</b>  Ending POH - <b>\$1,384,622.61</b>  (\$475,166.79 is cash; ending property on hand amount includes the \$518,182.00 amount held in constructive trust by Trustee for the benefit of the Frank H. LaBree Exemption Trust.)</p> <p>Trustee - No compensation paid</p> <p>Attorney - No compensation paid</p> <p>Accountant - <b>\$219.00 (paid)</b>  (to Erickson &amp; Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson &amp; Assoc.)</p> <p><b>Petitioner states:</b></p> <ul style="list-style-type: none"> <li><b>ROBERTA LABREE</b> and <b>FRANK H. LABREE, Jr.</b>, created the <b>LABREE FAMILY TRUST</b> on 4/13/1981, as amended on 5/2/1984, and as amended in full on 12/20/1991, and were the original co-trustees of the Trust;</li> <li>Upon Frank's death on 8/15/2006, a portion of the Family Trust became irrevocable and the <b>FRANK H. LABREE EXEMPTION TRUST</b> was established under the terms of the Family Trust;</li> <li>Roberta became the sole Trustee of the LaBree Family Trust and the Exemption Trust, and served until her death on 3/25/2012 when Petitioner became and is currently the Successor Trustee of the Exemption Trust (copy of Second Amendment to Declaration of Trust attached as Exhibit A);</li> </ul> <p align="center"><b>~Please see additional page~</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>	
Roberta DOD: 3/25/2012				
<b>Cont. from</b>				
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
	<b>Inventory</b>			
	<b>PTC</b>			
	<b>Not.Cred.</b>			
✓	<b>Notice of Hrg</b>			
✓	<b>Aff.Mail</b>			W /
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
	<b>Letters</b>			
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			
		<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 11/28/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b> <b>File 11 - Labree</b></p>		

**Petitioner states, continued:**

- During the period of administration of this account, Petitioner discovered excess income distributions totaling **\$60,756.82** were made in 2008, 2009 and 2010 to Roberta LaBree by the Exemption Trust, of which Roberta was the sole beneficiary during her lifetime; on 12/31/2011, the Trustee on behalf of the **ROBERTA D. LABREE TRUST** applied income due to Roberta for 2011 in the amount of **\$3,427.00** to the amount owed to the Exemption Trust (*please refer to Schedules C and G of the account*); the full amount owed by the Family Trust of **\$57,329.82** has been paid to the Exemption Trust by the Family Trust and will be reflected in the next account;
- During the period of administration of this account, Petitioner discovered the Family Trust had underfunded the Exemption Trust by **\$500,000.00**, which accrued interest of **\$18,182.00**, and the full amount of **\$518,182.00** has been paid by the Family Trust to the Exemption Trust and will be reflected in the next account.

**Petitioner prays for an Order:**

5. Settling and allowing the First Account and Report of the Trustee; and
6. Ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee relating to matters set forth in the First Account.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust Dated March 26, 1992 [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]

Frank DOD: 8/15/2006		<p><b>BARBARA L. PEARSON</b>, Trustor's daughter, Trust Beneficiary and Successor Trustee of the <b>FRANK H. LABREE IRREVOCABLE TRUST</b>, is Petitioner.</p> <p>Account period: 10/10/2008 – 12/31/2011</p> <p>Accounting - <b>\$456,694.10</b> Beginning POH - <b>\$421,894.79</b> Ending POH - <b>\$423,435.60</b> (\$334,115.35 is cash)</p> <p>Trustee (Initial) - <b>\$3,510.00</b> (services prior to 10/10/2008 for initial Trustee, paid to Law Offices of Earl O. Bender)</p> <p>Trustee (Current) - <b>\$600.00</b> (paid)</p> <p>Trustee Costs - <b>\$1,379.84</b> (paid) (reimbursement of 2010 travel expense)</p> <p>Attorney - Not requested</p> <p>Accountant - <b>\$615.00</b> (paid) (to Erickson &amp; Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson &amp; Assoc.)</p> <p><b>Petitioner states:</b></p> <ul style="list-style-type: none"> <li><b>FRANK H. LABREE, Jr.</b>, created the <b>FRANK H. LABREE IRREVOCABLE TRUST</b> on 3/26/1992, which was funded initially by a life insurance policy on Frank (copy of Trust Agreement attached as Exhibit A);</li> <li>The initial Trustee was <b>EARL O. BENDER</b>, who resigned on 10/9/2008, and Petitioner succeeded as trustee; Petitioner is a resident of Auberry, California;</li> </ul> <p align="center">~Please see additional page~</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>2. Need proposed order.</p>	
Roberta DOD: 3/25/2012				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W /
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: LEG

Reviewed on:  
11/28/12

Updates:

Recommendation:

File 12 – Labree

**Petitioner states, continued:**

- Pursuant to probate Code § 17200, the Trustee is requesting Court review of the first account and of the acts of the Trustee, and submits her first account and report of administration of the Trust for settlement and allowance;
- On 1/30/2009, Trustee loaned herself and her husband, **PAUL E. PEARSON**, the sum of **\$95,000.00** per a written promissory note dated 1/30/2009 at 6% per annum interest with monthly payments of **\$860.00**, and such note is secured by a manufactured home located in Auberry, California; the note was modified on 12/1/2010 to reduce the annual interest to 4%, with all other terms remaining the same; at all times and during the account period, the note remained current and all payments are reflected in the account; the note was subsequently paid in full as will be reflected in the next account; the loan was done with the consent of Roberta LaBree who was the surviving spouse of the Trustor and was the primary beneficiary of the Irrevocable Trust at that time;
- On 9/10/2009, Trustee made an unsecured loan to **SHANNON BADELLA** and **ANTHONY BADELLA**, Trustee's daughter and her husband, in the sum of **\$14,300.00**; the loan was evidenced by a written promissory note at 6% per annum interest with monthly payments of **\$400.00**, commencing 11/1/2009; the note was modified on 12/1/2010 to reduce the interest rate to 4% per annum with all other terms remaining the same; on 3/24/2011, Petitioner assumed the obligation and payment of the note, which at that time had a balance of **\$9,317.97**; at all times and during the account period, the note remained current and all payments are reflected in the account; the loan was done with the consent of Roberta LaBree, who was the surviving spouse of the Trustor and was the primary beneficiary of the Irrevocable Trust at that time;
- The current and "Present Beneficiaries" of the Trust are Barbara L. Pearson (of Auberry), Roxanne McWilliams (of West Hills), and Tracy I. Sprier (of Temecula); each Present Beneficiary has an unrestricted right to "withdraw from principal the entire balance of her trust at any time" pursuant to Subsection 5.02(b)(c) of the Trust, thus Probate Code §§ 15802 and 15803 apply and the Present Beneficiaries' rights to withdraw limit the Trustee's duty to notify any future beneficiaries.

**Petitioner prays for an Order:**

7. Settling and allowing the First Account and Report of the Trustee;
8. Ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee relating to matters set forth in the First Account; and
9. Ratifying and approving the Trustee's fees already paid as set forth in the First Account.

***Objection to Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust dated 3/26/1992; Request for Attorneys' Fees filed 11/16/2012 by TRACY SPREIER, Trustor's daughter and Trust Beneficiary, states she objects to the account filed by Barbara Person on the following grounds:***

- **The Court should not approve the Successor Trustee's acts of unilaterally reducing the interest rate of the loans that she made from the Trust's funds to herself and her daughter, without any evidence of the reasonableness and justification of such self-dealing.**
- **The Court should not approve the Successor Trustee's unusual travel expenses without evidence of the reasonableness of such charges to the Trust.**
- **The Account and Report fails to explain the reason for the unusual omission of any payment to the Successor Trustee for her fees for 2010 and 2011, and it is unknown whether those fees are waived or if the Successor Trustee was compensated in some other way.**

***~Please see additional page~***

*Reply to Objections to Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust dated 3/26/1992 filed 11/26/2012 by Barbara Pearson, Trustee, states:*

- The Objection is somewhat economically bewildering because the objection questions actions by the Trustee which benefitted the Trustee or her daughter a total of \$5,170.12, and if successful in her objection, Objector stands to gain at most \$1,723.37 based on her 1/3 share.
- Petitioner's counsel was never contacted to see if Objector's questions could be adequately addressed, or the issues perhaps settled on an informal basis; Petitioner wonders why Objector's counsel did not simply call to discuss Objector's concerns with this accounting.
- In her service as Trustee for the three+ years presented in the accounting, Petitioner's benefit of \$5,170.12 would be well within a reasonable Trustee fee for her service given her active involvement with investment decisions and her assistance with preparation of the Trust's tax returns each year.
- The reduction of the interest rate from 6% to 4% was consented to by a life-time beneficiary of the Trust, and was economically reasonable.
- The Successor Trustee's travel expenses for \$1,379.84 were reasonably related to the administration of the Trust.
- The Trustee is not requesting Trustee fees for 2010 or 2011.
- The Court should deny Objector's request for attorney fees for the Objection.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Petition for Settlement of First Account and Report of Trustee of the LaBree Irrevocable Trust Dated March 26, 1992 [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]

Frank DOD: 8/15/2006	<b>BARBARA L. PEARSON</b> , Trustors' daughter, Trust Beneficiary and Trustee of the <b>LABREE IRREVOCABLE TRUST</b> , is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
Roberta DOD: 3/25/2012		
	Account period: 3/25/2011 – 12/31/2011	
Cont. from	Accounting - <b>\$1,011,330.57</b>	
Aff.Sub.Wit.	Beginning POH - <b>\$1,000,000.00</b>	
✓ Verified	Ending POH - <b>\$1,011,330.57</b>	
Inventory	Trustee - <i>No compensation paid</i>	
PTC	Attorney - <i>No compensation paid</i>	
Not.Cred.	Accountant - <i>No compensation paid</i>	
✓ Notice of Hrg		
✓ Aff.Mail w/		
Aff.Pub.		
Sp.Ntc.	<b>Petitioner states:</b>	
Pers.Serv.	<ul style="list-style-type: none"> <li>• <b>FRANK H. LABREE, Jr.</b>, and <b>ROBERTA D. LABREE</b> created the <b>LABREE IRREVOCABLE TRUST</b> on 3/26/1992, and the initial Trustee was and continues to be the Petitioner (<i>copy of Irrevocable Trust Agreement attached as Exhibit A</i>);</li> <li>• The Trust owned a second-to-die policy on the lives of Frank and Roberta, which paid <b>\$1,000,000.00</b> to the Trust on Roberta's death;</li> <li>• Pursuant to probate Code § 17200, the Trustee is requesting Court review of the first account and of the acts of the Trustee, and submits her first account and report of administration of the Trust for settlement and allowance.</li> </ul>	
Conf. Screen	<b>Petitioner prays for an Order:</b>	
Letters	10. Settling and allowing the First Account and Report of the Trustee as filed; and	Reviewed by: LEG
Duties/Supp	11. Ratifying, confirming and approving all acts and transactions of the Petitioner as Trustee relating to matters set forth in the First Account.	Reviewed on: 11/28/12
Objections		Updates:
Video Receipt		Recommendation:
CI Report		File 13 – LaBree
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		



<b>Age:</b> 83		<b>SUSAN M. BROWN</b> , Daughter, is Petitioner and requests appointment as Conservator of the Person with medical consent powers and dementia medication powers and as Conservator of the Estate with bond of \$94,000.00.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Court Investigator advised rights on 11-6-12.</u>  1. Examiner calculates that bond should be \$95,480.00, which amount includes cost of recovery per Probate Code §2320(c)(4) and Cal. Rules of Court 7.207. The order has been interlineated to reflect this amount.  <b>Note:</b> The Court will set status hearings as follows: <ul style="list-style-type: none"> <li>• 1-4-13 for filing of bond</li> <li>• 4-5-13 for filing of the Inventory and Appraisal</li> <li>• 4-4-14 for filing of the first account</li> </ul> If the above items are appropriately filed before the hearing dates, then no appearance will be required.
<b>DOB:</b> 8-14-29			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	<b>WALTER EDWARD EASTWOOD</b> (the proposed Conservatee) signed a Nomination of Petitioner filed 10-23-12.  <b>Voting rights affected.</b>  <b>Estimated Value of Estate:</b> Personal property: \$70,000.00 Annual income: \$16,800.00 Total: \$86,800.00  <b>A Capacity Declaration was filed 10-23-12.</b>  <b>Petitioner states</b> the proposed Conservatee's memory is greatly impaired and conservatorship is necessary to protect him and his assets for his own care. Walter lives at his residence with his grandson, Richard Underwood, who has a criminal record and history of drug and alcohol abuse and is addicted to gambling. Mr. Underwood does not work and continuously borrows money, and does not contribute to any expenses of the home. He receives food stamps and "sold" his right to the food stamps to Walter for \$150; however, Walter does not remember these transactions. Mr. Underwood allows women to stay at the home and there have been several instances of arguing in the middle of the night, startling Walter. Walter was a victim of a home invasion robbery approx. 3 years ago and was beaten. He has become nervous and upset but does not have the presence of mind to ask Mr. Underwood to leave. He is afraid that Mr. Underwood or his friends might invade his home and attack him. Walter is easily influenced and taken advantage of. Petitioner has assisted him in paying his bills and managing his money for many years.  <b>Court Investigator Charlotte Bien filed a report on 11-8-12.</b>	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>		W
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input checked="" type="checkbox"/>	<b>Pers.Serv.</b>		W
<input checked="" type="checkbox"/>	<b>Conf. Screen</b>		
<input checked="" type="checkbox"/>	<b>Letters</b>		
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input checked="" type="checkbox"/>	<b>Video Receipt</b>		
<input checked="" type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input checked="" type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

			<b>SONYA A. MATTSON and KATE A. MATTSON,</b> Beneficiaries, are Petitioners.  Petitioners state a vacancy has occurred in the office of trustee because the appointed trustee Marvel Stafford died on 5-5-11 in Stockton, CA, and the trust administration has been carried out in Fresno County where the trust's real property is located.  Petitioners state the named successor, Walter Bergmann, has declined to act and joins in the nomination of the adult beneficiaries Sonya A. Mattson and Kate A. Mattson. The Decedent's will requires that a vacancy in the office of trustee will be appointed by the Court.  <b>Petitioners request an order appointing them as successor Co-Trustees.</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
	<b>Inventory</b>			
	<b>PTC</b>			
	<b>Not.Cred.</b>			
✓	<b>Notice of Hrg</b>			
✓	<b>Aff.Mail</b>	w/o		
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
	<b>Letters</b>			
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			
				<b>Reviewed by:</b> skc
				<b>Reviewed on:</b> 11-27-12
				<b>Updates:</b>
				<b>Recommendation:</b> SUBMITTED
				<b>File 15 - Mattson</b>

Atty Saiz, Steven D (Co-Guardian – Paternal Grandfather)

Atty Saiz, Linda M (Co-Guardian – Paternal Grandmother)

Atty Taylor, Georgette (Pro Per – Petitioner – Mother)

## Petition for Termination of Guardianship

Roman Age: 17		GEORGETTE TAYLOR, mother, is petitioner.		NEEDS/PROBLEMS/COMMENTS:  This petition pertains to Roman Godines only.  1. Need Notice of Hearing.  2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Termination of Guardianship <u>or</u> Consent to Termination and Waiver of Service and Notice of Hearing <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> <li>Jesse Godines (Father)</li> </ul>	
		STEVEN D. SAIZ and LINDA M. SAIZ, paternal grandparents were appointed guardians on 04/22/2002. Steven D. Saiz and Linda M. Saiz consent and waive notice.			
Cont. from		Father: JESSE GODINES			
	Aff.Sub.Wit.		Maternal Grandfather: Fred Taylor, Deceased		
✓	Verified		Maternal Grandmother: Nancy Taylor, Deceased		
	Inventory		Minor: Roman Godines, consents and waives notice.		
	PTC				
	Not.Cred.				
	Notice of Hrg	x			
	Aff.Mail				
	Aff.Pub.	x			
	Sp.Ntc.				
	Pers.Serv.				
	Conf. Screen				
	Letters				
	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT / LV	
				Reviewed on: 11/27/2012	
				Updates:	
				Recommendation:	
				File 16 – Godines & Taylor	

<b>Age: 15</b>		<p><b>PAULA A. RENTERIA</b>, guardian/sister, is petitioner. She was appointed guardian on 04/30/2012.</p> <p>Father: <b>UNKNOWN</b></p> <p>Mother: <b>OLIVIA STEPHANIE TORESS-</b> Incarcerated, personally served 08/27/2012</p> <p>Paternal Grandparents: Unknown</p> <p>Maternal Grandfather: Alfredo Torres, Deceased Maternal Grandmother: Grace Hernandez, served by mail on 08/07/2012.</p> <p><b>Petitioner states:</b> The child is not living with the petitioner. Child is not obeying petitioner and causes problems in the household. Child made false accusations against petitioner's husband, and afterwards cut her wrists. Petitioner called police CCAIR, child was given a psychological assessment and it was determined that she was doing this for attention. Child's accusations were dismissed by authorities.</p> <p><b>Court Investigator Samantha D. Henson's report filed 09/24/2012.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>17B is a petition for guardianship filed by Francisco Renteria, minor's maternal uncle.</b></p> <p>1. Need proof of personal service fifteen (15) days prior to the hearing on the following person:</p> <ul style="list-style-type: none"> <li>• Andrea Irene Rene Arreola (Minor)</li> </ul>
<b>Cont. from 100112</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b> <input checked="" type="checkbox"/>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
		<p><b>Reviewed by:</b> KT / LV</p> <p><b>Reviewed on:</b> 11/27/2012</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 17A - Arreola</b></p>	

**Petition for Appointment of Guardian of the Person (Prob. C. 1510)**

<b>Age: 15</b>		<b><u>NO TEMPORARY REQUESTED</u></b>		<b>NEEDS/PROBLEMS/COMMENT</b>	
				<b>S:</b>	
<b>Cont. from</b>		<b>FRANCISCO I. RENTERIA</b> , maternal uncle, is petitioner.		1. Need proof of personal service five (5) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> <li>• Father (Unknown)</li> <li>• Andrea Irene Rene Arreola (Minor)</li> </ul>	
	<b>Aff.Sub.Wit.</b>		<b>PAULA A. RENTERIA</b> , guardian/sister, is petitioner. She was appointed guardian on 04/30/2012. Guardian, Paula A. Renteria, consents and waives notice.		
✓	<b>Verified</b>		Father: <b>UNKNOWN</b>		
	<b>Inventory</b>		Mother: <b>OLIVIA STEPHANIE TORESS</b> , consents and waives notice		
	<b>PTC</b>		Paternal Grandparents: Unknown		
	<b>Not.Cred.</b>		Maternal Grandfather: Alfredo Torres, Deceased		
✓	<b>Notice of Hrg</b>		Maternal Grandmother: Grace Hernandez, served by mail on 10/30/2012.		
✓	<b>Aff.Mail</b>	w/	Siblings: Sabrina Arreola, Ricardo Arreola, Anthony Arreola, all served by mail on 10/30/2012.		
	<b>Aff.Pub.</b>		<b>Petitioner states:</b> Currently Paula Renteria is guardian of the minor, Andrea Irene Renee Arreola. Paula, guardian, has four children and two are special needs children, so she is unable to give Andrea the attention that she needs. Paula applied for termination of guardianship. Petitioner states that he will have other relatives including Paula assist him with providing support and guidance to the minor during her adolescence. The child's mother is currently incarcerated at the California Institution for Women in Corona, California. The minor child has always been a part of the petitioner's life and has spent weekends with him while living with the current guardian, Paula.		
	<b>Sp.Ntc.</b>				
	<b>Pers.Serv.</b>	x			
✓	<b>Conf. Screen</b>				
✓	<b>Letters</b>				
✓	<b>Duties/Supp</b>				
	<b>Objections</b>				
	<b>Video Receipt</b>				
✓	<b>CI Report</b>				
	<b>9202</b>				
✓	<b>Order</b>				
	<b>Aff. Posting</b>				
	<b>Status Rpt</b>				
✓	<b>UCCJEA</b>				
	<b>Citation</b>				
	<b>FTB Notice</b>				
<b>Court Investigator Samantha Henson's report filed 11/19/2012.</b>				<b>Reviewed by:</b> KT / LV <b>Reviewed on:</b> 11/27/2012 <b>Updates:</b> <b>Recommendation:</b> <b>File 17B - Arreola</b>	

**17B**

<b>DOD: 5-28-08</b>			<b>JACK NELSON</b> , Son and Administrator with Full IAEA without bond, is Petitioner.  Accounting is waived.  I&A: \$65,500.00 POH: \$65,500.00 (real property plus furniture, fixtures and personal items)  Administrator (Statutory): Waived  <b>Distribution pursuant to intestate succession and Waivers of Interest filed 6-22-12:</b>  Jack Nelson: Entire estate (real property plus furniture, fixtures and personal items)	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from 111312</b>				
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
✓	<b>Inventory</b>			
✓	<b>PTC</b>			
✓	<b>Not.Cred.</b>			
N/A	<b>Notice of Hrg</b>			
N/A	<b>Aff.Mail</b>			
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
✓	<b>Letters</b>	6-28-12		
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
✓	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
✓	<b>FTB Notice</b>			
			Reviewed by: skc	
			Reviewed on: 11-20-12	
			Updates:	
			Recommendation: SUBMITTED	
			File 18 - Nelson	

Atty Sanchez, Maria (Pro Per-Petitioner- Paternal Grandmother)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

<b>Anthony</b> <b>Age: 5</b>		<p align="center"><b><u>NO TEMPORARY REQUESTED</u></b></p> <p><b>MARIA SANCHEZ</b>, paternal grandmother, is petitioner.</p> <p>Father: <b>ANTHONY T. SANCHEZ</b>, personally served on 10/25/2012</p> <p>Mother: <b>FELICIA FLORES</b>, personally served on 10/29/2012</p> <p>Paternal grandfather: Kenneth Talamantez, Declaration of Due Diligence filed on 09/18/2012</p> <p>Maternal Grandparents: Unknown</p> <p><b>Petitioner states:</b> mother abandoned the children and mother and father abuse drugs. Petitioner feels the children would be better off in her care.</p> <p><b>Court Investigator Dina Calvillo's report filed 11/19/2012.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petitioner for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> <li>Maternal Grandparents (Unknown)</li> </ul> </li> <li>UCCJEA does not provide the children's residence for the past five years as required.</li> </ol>	
<b>Johnathan</b> <b>Age:4</b>				
<b>Cont. from</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>			
<input type="checkbox"/>	<b>Aff.Mail</b>			x
<input type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input checked="" type="checkbox"/>	<b>Pers.Serv.</b>			w/
<input checked="" type="checkbox"/>	<b>Conf. Screen</b>			
<input checked="" type="checkbox"/>	<b>Letters</b>			
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>			
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input checked="" type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input checked="" type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			
		<b>Reviewed by:</b> KT / LV		
		<b>Reviewed on:</b> 11/27/2012		
		<b>Updates:</b>		
		<b>Recommendation:</b>		
		<b>File 19 - Sanchez</b>		

Petition for Appointment of Guardian of the Estate (Prob. C. 1510)

Age: 16 years		<b>TEMPORARY EXPIRES 11/29/12</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<p><b>PETER JEFFREY GARZA</b>, father, is petitioner and requests appointment as guardian of the estate without bond.</p>		<p>1. Petition does not include the child information attachment. Therefore the names and addresses of the paternal grandparents, maternal grandparents and siblings have not been provided. In addition, the information regarding whether or not the minor is of Indian ancestry is not included.</p>	
Cont. from		<p><b>Estimated value of the estate:</b> Personal property - <b>\$282,000.00</b></p>		<p>2. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person or Consent &amp; Waiver of Notice or Declaration of Due Diligence</i> for:</p> <ul style="list-style-type: none"> <li>- Maternal grandparents</li> <li>- Paternal grandparents</li> <li>- Siblings over the age of 12</li> </ul> <p><b>Note:</b> A proof of service by mail was filed 11/15/12 showing notice was sent to Jessica Garza &amp; Noemi Garza, however, it is unclear what their relationship to the minor is due to missing the required Child Information Attachment (see note 1).</p>	
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	w/			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report	n/a			
	9202				
✓	Order			<p>3. Petition requests that bond be waived. Local Rule 7.8.11 states absent a showing of good cause it is the policy of the court to block all funds in Guardianship estates.</p> <p><b>Note:</b> Minute Order from hearing on 10/25/12 granted a temporary guardianship of the estate subject to receipt of a blocked account. As of 11/27/12, no receipt from blocked account has been filed.</p>	
	Aff. Posting			<p><b>Reviewed by:</b> JF</p>	
	Status Rpt			<p><b>Reviewed on:</b> 11/27/12</p>	
	UCCJEA			<p><b>Updates:</b></p>	
	Citation			<p><b>Recommendation:</b></p>	
	FTB Notice			<p><b>File 20 - Garza</b></p>	



## Petition for Appointment of Temporary Guardianship of the Person

Age: 23 months		<b>GENERAL HEARING 01/22/13</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>MARY LOUISE ENCIZO</b> , paternal grandmother, is Petitioner.		1. Need <b>Notice of Hearing</b> .	
		Father: <b>ALEXANDER MORENO</b>		2. Need proof of personal service at least 5 court days before the hearing of <b>Notice of Hearing</b> with a copy of the <b>Petition for Appointment of Temporary Guardian of the Person</b> or Consent & Waiver of Notice or Declaration of Due Diligence for:	
Cont. from		Mother: <b>ALICIA ESCARSEGA SEPULVEDA</b>		- Alexander Moreno (father)	
	Aff.Sub.Wit.			- Alicia Escarsega Sepulveda (mother)	
✓	Verified	Paternal grandfather: NOT LISTED			
	Inventory	Maternal grandfather: NOT LISTED			
	PTC	Maternal grandmother: ALMA ESCARSEGA SEPULVEDA			
	Not.Cred.				
	Notice of Hrg	x			
	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order			Reviewed by: JF	
	Aff. Posting			Reviewed on: 11/27/12	
	Status Rpt			Updates:	
✓	UCCJEA			Recommendation:	
	Citation			File 21 - Moreno	
	FTB Notice				